

# Education Legislative Report

February 22, 2016 – Issue #5

## **Education, Ways & Means Committees Develop Tax Rate Bill**

Two House committees are working on a bill that will set the FY 2017 dollar-equivalent yields and that may include cost containment for FY 2018. The House Ways & Means Committee spent time last week taking testimony on the Act 68 excess spending thresholds. These thresholds have been in place for many years, but did not apply to FY 2017 because of the allowable growth rate provision of Act 46. The excess spending threshold places a dollar-for-dollar penalty on education spending above a certain percentage of the average statewide spending for that year.

In 2014, the General Assembly modified the thresholds, basing them on FY 2014 average education spending, inflated by the NEEP Government Goods and Services Index on an annual basis. If the provision were in place this year, FY 2017's threshold would be \$16,905. If no changes are made to the law this year, in FY 2018 the threshold percentage will be 121% of the 2014 statewide average, indexed for inflation. The Ways and Means Committee discussed decreasing the percentage to 119% in either FY 2018 or 2020 as a cost containment strategy.

The tax rate bill will also contain a dollar-equivalent yield for calculation of homestead tax rates and income-based tax rates. It will also include a non-homestead property rate. The [most recently projected yield](#) is \$9,701. The decrease in the yield reflects the

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changes made to the allowable growth provision in Act 65 of 2016 and education spending growth estimated at 1.6%.

The Ways and Means Committee bill also includes a provision that would direct the General Assembly to identify the costs of any legislative requirement and require a General Fund appropriation to cover the costs of the requirement. This provision is designed to prevent future “unfunded mandates” from being imposed on school districts. The process outlined in the bill calls for the Joint Fiscal Office and the Secretary of Administration, in consultation with the Secretary of Education, to estimate the unfunded education mandate amount within 30 days of the conclusion of the

legislative session when the mandate was enacted. The Joint Fiscal Office and Secretary of Administration shall then present the total unfunded mandate amount to the Emergency Board. The Emergency Board then presents the unfunded mandate amount to the Governor, and recommends that the Governor include a transfer of that amount from the General Fund to the Education Fund in the following fiscal year.

The tax rate bill will emerge from the Ways & Means Committee this week. The Education Committee will review the bill and may make amendments before a final version goes to the full House for approval.

### ***Budget Increases Exceed Increases in Education Spending***

[Preliminary budget information](#) from 211 districts shows an overall 2.44% growth in budget expenditures for FY 2017. However, growth in education spending is up less than that, increasing at a projected 1.5%. In simple terms, education spending is proposed budgets minus certain revenues. The difference this year, according to the Agency of Education's analysis, is due to districts' use of surplus funds in order to avoid their allowable growth rates.

An increase in education spending of less than two percent, coupled with the availability of \$19.7 million in surplus funds in the Education Fund could mean that tax rates in most districts will not increase significantly. However, using one-time funds at both the state and local level to cover operating costs in FY 2017 increases the prospects that education taxes could spike for FY 2018.

The \$19.7M is a much higher surplus in the Education Fund than usual, and is due to a reversion of over \$16M in unspent special education funds, which built up over a two-year period. Rather than use all of these revenues in a single year, our associations support a fiscal approach that applies only a portion of the state's one-time funds in FY 2017, leaving the remaining funds as a cushion for FY 2018.

### ***House Education Committee Focuses on Special Education***

Act 46 called for an adequacy study, conducted by Picus, Odden & Associates, to evaluate better ways to allocate education funding. The Picus Study suggests that Vermont is spending 10 percent more than the "evidence based model" developed by Picus et al., with special education being a significant cost driver. The report makes recommendations for policymakers to consider for cost reduction.

The general recommendations in the Picus report focus on solutions that are used nationally to address special education spending. Themes include: teachers need more training to deal with struggling students in the regular classroom, systems rely too

heavily on paraprofessionals, and students are over-identified for special education. The Picus Report states that special education has become so complex it has outpaced those with the expertise to understand it. It suggests viewing the complexities of special education through a regular education lens with regular education solutions.

As a follow up to the Picus Report, the House Education Committee heard from Nate Levenson of the District Management Council, an organization that has worked with school districts across the country and three supervisory unions/districts in Vermont to identify opportunities to improve educational outcomes in a more efficient manner. Levenson's view is that educators owe students with special needs far better outcomes. He proposed six interconnected best practices to help students requiring additional support achieve at high levels in a more cost effective manner. They are: a rigorous general education curriculum, coordinated and sustained focus on reading, extra time to learn, targeted interventions, strong teachers, and data to track improvement.

Levenson stated that no factor matters more than the quality of the classroom teacher in determining whether students will achieve at high levels or not. Research shows that Vermont school districts rely heavily on paraprofessionals, who sometimes do not have the expertise necessary to provide the high quality instruction needed by students facing academic challenges.

Another person who has studied Vermont's special education framework, Dr. Michael Giangreco of the University of Vermont, testified in House Education last Thursday. Dr. Giangreco stated that he sees no quick fix to special education issues, because it is such a complex area. He cautioned that he has never encouraged lawmakers to cut paraprofessionals, but admits there are likely cost savings in moving to a different model.

The committee's chair, Rep. Dave Sharpe presented a [draft](#) of a bill to the other members on Friday. It calls for a 10 school pilot project to work with the District Management Council on special education service provision, and creates one new position at the Agency of Education. The proposal also includes provisions that would move all state aid for special education to the supervisory union, rather than districts. It also would provide a grant to UVM for a study of the census block model of special education funding. Representative Sharpe characterized his draft as a starting place for the committee's discussion of how to address special education reform this session. Our associations have not yet taken a position on this bill.

### ***Bill Would Move Speech-Language Pathologist Licensing from AOE***

The Senate Government Operations Committee has been taking testimony on [S.217](#), a bill that would complete the move of licensure for educational Speech-Language

Pathologists (SLPs) away from the Agency of Education and to the Office of Professional Responsibility (OPR). Last year, the General Assembly moved the clinical licensure process for SLPs from the AOE to OPR. Since that change, SLPs have had to go through two state licensing processes, one for the clinical credential from OPR and one for the educator endorsement from AOE.

Deputy Secretary Dr. Amy Fowler expressed concern that a move completely away from the Agency of Education to the Office for Professional Regulation would have negative impact on schools and the students they serve.

For instance, the AOE reviews claims of educator misconduct, including SLPs. It would be inefficient for an administrator to report misconduct to the AOE for some employees, and to OPR for others. Dr. Fowler also gave an explanation about the relationship between the licensing function of the Agency and its ability to implement state and federal programs. It is important for the Agency to be able to keep track of licensed educators in every area of job performance in order to communicate and implement policy changes.

Our associations are hopeful that the Senate Government Operations committee will postpone action on S.217 until a compromise between the AOE and OPR can be reached that relieves educational SLPs from burdensome fees for licensing, but that maintains the integrity of the educational licensing system within the Agency of Education.

### ***Bill Addresses Redundant Reporting to DCF by Mandated Reporters***

Act 60 of 2015 was a comprehensive effort to improve Vermont's system of child protection. One provision changed the requirement in 33 V.S.A. § 4913, which mandates reports to be made to the Department for Children and Families when a mandatory reporter suspects abuse or neglect of a child. The changes in Act 60 were intended to clarify that each mandated reporter should make a report directly, rather than after an internal process to evaluate whether a report is needed. An unintended consequence of that change, however, was reporters had to make many duplicate reports to DCF, especially those working in schools and hospitals.

The solution proposed by the House Human Services committee, [H.622](#), as [amended](#) by the committee, will allow an exception for mandated reporters who have written confirmation that a report of the same incident has already been made to DCF when they have no additional information to add to the original report. The language is designed to require reports to DCF in every instance of suspected neglect or abuse, but to curtail the entirely redundant reports that are could slow down or confuse DCF investigations.

The House passed the bill last week, and it will be referred to the Senate Health and Human Services committee this week.

### ***Paid Sick Days Bill Passes After Two Year Effort***

[S.187](#) received final House approval on Thursday. The Healthy Workplaces bill will require employers to provide three paid sick days per year for years 2017-18 and five days a year thereafter. It does not affect employees who work fewer than 18 hours in a week or fewer than 21 weeks in a year. The bill does apply to employees of school districts and supervisory unions, but not to temporary employees or substitute teachers who do not work more than 30 consecutive days on the same assignment. The bill also allows for collective bargaining agreements to include provisions that differ from the proposed requirements, so long as those agreements bestow equal or more generous sick leave benefits to employees. Governor Shumlin is expected to sign the bill into law, making Vermont the fifth state to offer earned sick days.

### ***House Education Considers Tech Center Study***

The House Education Chair, Rep. Dave Sharpe presented a draft [bill](#) to his committee on Friday last week that would create a study of career technical education in 2016. The study, undertaken by the Pre-K to 16 Council, would be tasked with considering several perceived barriers to better career and technical education including: governance models, funding models, flexible pathways to secondary education, and the potential for placing the state's career technical centers under the governance of the Vermont State Colleges.

The proposal includes a new staff position at the Agency of Education, which would initially be tasked with assisting the Pre-K to 16 Council, but would be funded beyond completion of the study. Our associations have not yet taken a position on this bill.

### ***Marijuana Debate This Week in the Senate***

[S.241](#), a bill that would tax and regulate marijuana for recreational use, has been under review in the Senate Appropriations Committee for the past week. That committee is likely to either vote the bill out, or allow the bill to proceed to the full Senate without a committee vote later this week. The Senate could debate the bill as early as Wednesday afternoon.

A [fiscal note](#) written by the Joint Fiscal Office projects that the revenue from fees relating to marijuana regulation could reach \$1.1M in 2017, the first year that businesses could apply for a marijuana retail, cultivation or laboratory license. The note does not

forecast tax revenues that would be collected from the initial 25% retail tax on marijuana.

The VSA, VPA, VSBA and VCSEA have adopted resolutions or position statements on the legalization of marijuana. The statements are very similar and call on the General Assembly to carefully consider a set of issues relating to education and child welfare under a marijuana regulation framework. You can read the resolutions at the links below. The Vermont Council of Special Education Administrators has endorsed the VSA resolution on its part.

[Vermont Superintendents Association Resolution on the Potential Legalization of Marijuana for Recreational Use in Vermont](#)

[Vermont School Boards Association Position Statement on the Potential Legalization of Marijuana for Recreational Uses in Vermont](#)

[Vermont Principals Association Resolution on the Potential Legalization of Marijuana for Recreational Uses in Vermont](#)