

Education Legislative Report

January 10, 2017 – Issue #2

Phil Scott Inaugurated as Vermont's 82nd Governor

On January 5th Phil Scott took the oath of office as Vermont's new governor. In his inaugural address, the Governor focused on three goals of his administration: strengthening the economy, making Vermont more affordable, and protecting the most vulnerable. To accomplish these goals, Governor Scott stated that the state should focus on four policy areas: combating the opiate crisis, taking a new approach to economic development, building sustainable state budgets and transforming the education system.

In terms of education policy, Governor Scott did not give specifics, but highlighted early childhood education and higher education as areas where Vermont devotes few resources relative to state K-12 spending and other states' allocations.

The Governor had specific challenges for school board members, superintendents, principals and teachers. He said that school board members should imagine a system in which they can focus on improving the quality of schools, rather than on budgets and tax rates. Scott challenged superintendents to be creative about optimizing resources, and principals to focus on fostering excellence, rather than building management. Finally, the Governor spoke to teachers about the possibility of merit-based, rather than seniority-based promotions. The full text of the inaugural address is found [at this link](#).

Governor Scott will give his budget address to the General Assembly on January 26th. He is expected to outline his administration's policy priorities in more detail at that time.

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House Committee Members Announced

On the opening day of the legislative session, the House of Representatives elected Mitzi Johnson of South Hero to be its Speaker. Shortly after her election, Speaker Johnson announced the list of committee assignments for all House members.

The House Education Committee will continue to be chaired by Representative David Sharpe, a Democrat from Bristol. The committee has a new Vice-Chair, Albert Pearce, a Republican from Richford who has served in the legislature previously, both on the Appropriations and the Education Committees in the years from 2009 until 2014. Other new members of the House Education Committee are Representative Kate Webb (D, Shelburne), Representative Peter Conlon (D, Cornwall), Representative Dylan Giambatista (D, Essex Jct.) and Representative Ben W. Joseph (D, North Hero).

Representative Adam Greshin (I, Warren) who previously served on the House Committee on Ways and Means, also joined the Education Committee. Returning House Education members are Representative Scott Beck (R, St. Johnsbury), Representative Alice Miller (D, Shaftsbury), Representative Emily Long (D, Newfane) and Representative Larry Cupoli (R, Rutland).

New Chair and New Members Appointed to Senate Education Committee

On Friday, Senate leadership announced Senator Philip Baruth (D, Chittenden County) as the new chair of the Senate Education Committee. The Vice Chair is Senator Becca Balint (D, Chittenden County). Other members are Senator Joe Benning (R, Caledonia County), Senator Kevin Mullin (R, Rutland County), Senator Christopher Bray (D, Addison County) and Senator Debbie Ingram (D, Chittenden County).

Senator Baruth served on the Senate Education Committee last biennium. Senator Mullin has chaired the committee in past. Senators Bray, Benning and Balint are serving their first terms on the committee; Senator Ingram is a first-term legislator.

As leaders of your school districts and supervisory unions, you serve as a voice for public education. As your state associations, we work to support your efforts and represent you efficiently. That stated, there is no substitute for direct contact by constituents with their legislators. We encourage you to read our Reports, keep abreast of issues, and work to stay in

touch with your house members and senators. For a list of representatives and senators by supervisory union, click [here](#).

Senate Education Committee to Review Act 46 and State Board Rulemaking

The first two topics for the Senate Education Committee this session are a review of Act 46 implementation and an assessment of the State Board of Education's rulemaking authority regarding independent school approval.

Vermont statutes require the State Board to establish rules governing the approval of independent schools. Approved independent schools are eligible to receive public tuition dollars from towns that pay tuition. In Vermont, these towns are commonly referred to as towns that have "school choice." Vermont is one of only two states that allows towns lacking an elementary or secondary school to pay tuition for their students to attend another public or private school. A unique feature of Vermont is that students may also take their "town tuition" to a school out of state.

Like school voucher programs, town tuitioning provides taxpayer dollars to students to pay for public or private school. Eligibility in Vermont is open to all students who are residents of a tuition paying town. However, there is no requirement that private schools accepting public tuition dollars admit all students from tuitioning school districts who wish to attend.

One cause for concern is that most approved independent schools offer minimal categories of special education, if any, and some require families to contribute to the costs of special education services out-of-pocket. Most publicly-funded students attend one of the four historic academies (St. Johnsbury, Lyndon Institute, Burr & Burton, and Thetford), which are approved in all categories of special education. However, that is not the case for all private schools that accept public funds. We have private schools with close to 90% of their students publicly funded that are not equipped to ensure students with disabilities can access their programs.

During the fall, the State Board of Education initiated rule making on independent school approval standards. At its core, the State Board of Education's rulemaking process governing independent school approval is designed to ensure equal opportunity and access to publicly-funded education. These updated rules are crucial to ensuring that all students, regardless of their disability, are able to enroll with their peers in any private school that is funded with public education dollars.

The process to date has not been perfect. Part of the problem stems from the fact that Governor Shumlin's office prevented Agency of Education staff from supporting the State Board of Education. The State Board has no independent staff of its own, and is comprised of volunteers who come from around the state and meet once a month. The Board has now contracted with outside legal counsel to redraft the rules.

The first draft of the rules was not without its problems. It included one sentence that stated independent schools would have to follow all the same laws and regulations that public school districts do, which led many approved independent schools to believe they would be forced to close. Concerns were also raised that the State Board did not have the authority to adopt rules that require open enrollment and special education services.

Last month, [the Attorney General determined](#) the State Board has the authority to promulgate rules addressing issues such as special education and open enrollment. Representatives from the independent schools, the State Board of Education, and public school representatives have been meeting over the past month to determine areas of common ground and opportunities to improve the rules. The State Board stated unequivocally in a November 29th memo that it has no intention of using this process to force independent schools to follow all of the same laws and regulations that public school districts have to follow.

The statutory rulemaking process is designed to have stakeholder input and public comment periods in order to identify problem areas and have them addressed before the rules are finalized. The concerns surrounding the process led to Bennington County Senators Campion and Sears stating an intent to introduce a bill that would limit the State Board's authority to promulgate rules.

Beginning this week, the Senate Education Committee will take testimony from the State Board, VSBA, and the Vermont Independent Schools Association (VISA). The committee is expected to take further testimony on the issues over the next week or so. Our Associations plan to respectfully ask that the General Assembly allow this process to continue without limiting the authority of the State Board to fulfill its statutory role of establishing and advancing education policy for the State of Vermont.

New Bills Affecting Education

In each Education Legislative Report, we will report extensively on education bills under consideration in committees, and at the end of the Report, we will list all newly released bills that appear to have provisions related to education.

If you have questions regarding the content, contact your Association's executive director or Emily Simmons, Director of Legal and Policy Services at VSBA and author of the Report at esimmons@vtsba.org.

House Bills

H. 7 : *An Act Relating To Act 46 Timelines*. This bill would delay all Act 46 timelines by one year. Sponsors: Representative Ancel, Mrowicki, Morrissey and many others.

H. 15 : *An Act Relating to amendments to Act 46 to facilitate the approval of alternative governance structures and extend time frames*. This bill would amend the State Board's requirements for approving alternative structures under Act 46, including removing the requirement that the alternative structure is the "best means" of meeting the goals of the Act. The bill would also extend Act 46 timelines by one year.

Sponsors: Representatives Ancel, Conquest, Mrowicki and many others.

Senate Bills

S. 1 : *An Act Relating to Determination of Average Daily Membership for 2016–2017 school year and equalized pupil count for fiscal year 2018*. This bill would direct the Secretary of Education to account for prekindergarten students who attend a background check-compliant programs as of January 13, 2017 in the average daily membership for fiscal year 2018.

Sponsors: Senators Ashe, Kitchel, Mullin and Cummings.

S.8 : *An Act Related to a State Ethics Commission and Standards for Ethical Governmental Conduct*. Section 5 of the bill would give advisory guidelines to municipal officials and municipal bodies for enforcing their own policies, such as conflict of interest policies.

Sponsors: Senators Pollina and White.