

# Education Legislative Report

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## **Governor Scott Proposes Radical Education Funding Changes**

Governor Scott delivered his first budget address to the General Assembly on Tuesday afternoon. The Governor asked for “courage and compromise” to achieve transformation in the education system. He then reviewed a budget proposal that includes four sweeping changes to education funding that would take effect this year.

First, the governor’s budget [proposal](#) would require FY18 school district budgets to be level funded from FY17. As of this week, the majority of budget proposals have already been approved by school boards and are in the process of being printed and warned for annual school district meetings. To give school boards time to make cuts, Governor Scott asked the General Assembly to delay school district budget votes until May 23, 2017.

Second, the governor’s proposal would move the teachers’ retirement liability as well as retired teachers’ healthcare to the Education Fund. These items total \$35 million.

Third, Governor Scott will ask for legislation that would require teachers to pay a minimum of 20% of healthcare premiums. The governor stated that this will save \$15 million annually.

Fourth, the governor would move a slate of General Fund appropriations to the Education fund. The appropriations for the Vermont State Colleges, the University of Vermont, VSAC, and a new \$9.6 million appropriation for early childhood education would all be included in the Education Fund.

Although Governor Scott campaigned on a platform of affordability, he gave no specific proposals during the campaign that addressed school district spending. Now, his level-funding proposal asks school boards “go back to work” on budgets to make reductions.

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This year's annual December 1 projection letter from the Department of taxes forecasted that FY18 statewide education spending would rise 2.54%. That prediction is based on an Agency of Education forecast based on preliminary local district budgets in late November. The governor did not offer a projection for the dollar amount that would be saved by level funding budgets. Any savings from level funding would provide the \$53 million proposed new funding for early childhood education and for increased funding to higher education.

The budget proposal would freeze school district spending for all districts to a 0% increase over the district's spending in FY17. The proposal would also allow any school district to spend up to 5% more than the level-funded amount by levying a local option tax on the local education grand list. The governor's proposal to cap current school district spending, combined with authority for locally raised education taxes may violate Chapter II, § 68 and Chapter I, Article 7 of the Vermont Constitution, as interpreted by the state's landmark education funding equity case, *Brigham v. State of Vermont* (1997).

The governor's proposal to require level-funded budgets disregards the tremendous amount of work that school boards have undertaken since the enactment of Act 46. That work that has already resulted in the merger of 66 school districts into 13 unified union school districts (Pk-12) and 1 modified unified union school district (MUUSD). These and other merger proposals are designed to meet the law's goals of equity, transparency, cost effectiveness and quality.

### ***Senate Education Committee Considers Act 46 Amendments***

In the last two weeks, the Senate Education Committee has taken several days of testimony on Act 46 implementation in committee, and has held extended meetings with members of study committees in two regions, Caledonia/Essex and Washington/Orange Counties, and plans to meet with at least two more regions in coming weeks. The committee gathered information on the Act 46 work completed to date, the work that is currently in process, and the changes that could be made to the Act to assist districts struggling to respond to Act 46.

Since passage of Act 46, voters in 58 towns in 14 SUs have voted to merge 66 school districts into 13 unified union school districts (PK-12) and 1 modified unified union school district (MUUSD). Voters in 4 SUs did not approve proposals that would have merged a total of 20 school districts. The committee's [legal counsel](#) reviewed the requirements, timelines and goals of Act 46. Donna Russo-Savage, Principal Assistant to the Secretary of Education, Governance,

also briefed the committee on [Act 46 mergers completed so far, upcoming implementation timelines](#), and [seven Act 46 proposals](#) that will be put forward this coming Town Meeting Day.

The Senate Education committee also reviewed [S.15](#), summarized [here](#), which proposes to amend Act 46 by rearranging the process by which the State Board of Education would approve alternative structures that would be exempt from the final statewide plan. Under current law, the State Board will review all proposed alternative structures as part of its adoption of the final statewide plan, which may reassign districts that have not yet completed an Act 46 merger by July 1, 2019.

S.15 would extend every deadline in Act 46 by one year, and require the State Board to review and either grant or deny approval of proposals to form alternative structures prior to writing the final statewide plan. It would also eliminate the requirement that an alternative structure be the “best means” of meeting the goals of Act 46. Finally, it would lower the average daily membership requirement for alternative structures from 1,100 to 500.

Given the number of districts that have complied with the law or are in the process of complying with the law, our associations support some modifications to Act 46, but do not support changes that would fundamentally change the rules that districts must follow to comply with the Act.

After two months of discussion, the VSBA board of directors unanimously approved a slate of modifications to Act 46. These changes include creating a deadline extension from July 1, 2017 to November 2017 for districts that meet objective criteria that more time is needed, such as a prior failed vote, and similarly extending the November deadline for alternative structure proposals for districts with extenuating circumstances. The VSBA also supports loosening the requirements for a side-by-side merger, to respond to areas of the state where there are no two districts in the same geographic area with the same operating structure. For a full list of recommendations from the VSBA board, click [here](#).

The committee will continue to take testimony on Act 46 for the next several weeks. They intend to review a draft committee bill containing many options, and work to narrow down a package of amendments that will respond to the testimony and information they receive from school district officials.

### ***House Committee Studies Career Technical Education***

The House Education committee has taken extensive testimony on Vermont's current career technical educational (CTE) offerings, as well as suggestions to increase participation in and the effectiveness of CTE.

Agency of Education staff provided the committee with an [overview of CTE](#) in Vermont and the CTE [funding](#) formula. Heather Bouchey, Deputy Secretary of Education, testified that, as a proportion of student population, CTE participation is growing. In 2004, 27.4% of available 11<sup>th</sup> and 12<sup>th</sup> graders participated in CTE, in 2014, that percentage was 29.8%.

Several career technical center directors testified about the programming in their centers: [Leann Wright](#), Director of the Northwest Technical Center, [Eileen Illuzi](#), Director of the North Country Career Center, [Robert Travers](#) Director of the Center for Technology, Essex, and [Scott Farr](#), Director of the River Valley Technical Center. The committee also heard from [Lyle Jepson](#) of the Rutland Economic Development Corporation, [Lisa Ventriss](#) of the Vermont Business Roundtable, and [Frank Cioffi](#) of the State Workforce Development Board. These witnesses spoke about the efforts underway in the business community to identify the state's workforce needs and align those with CTE offerings, so that students can move quickly into jobs in high demand.

It is not yet clear what, if any, area of career technical education the House Education committee will address in legislation. Two issues have emerged to date: whether to expand CTE to 9<sup>th</sup> and 10<sup>th</sup> grades, and whether to change the funding formula for career technical centers. The governor's budget address indicated that he would like to make more CTE-specific funding available to the Agency of Education, for promotion and improvement of CTE. We expect more details on this proposal to be made available in the coming weeks.

### ***Free Speech Legislation Introduced As S.18***

Students from Burlington High School and the University of Vermont testified in the Senate Education committee last week in support of a bill that would expand student expression rights in public and independent schools and postsecondary institutions. The bill, [S.18](#), would limit the ability of schools to determine the content of school-sponsored media, except in cases of material that is libelous or slanderous, invades another individual's privacy, violates law, or creates an imminent danger of inciting students to violate law, school rules or substantially disrupt the school's operation.

S.18 is supported by a national project of the Student Press Law Center, [New Voices](#). The group has successfully advocated for passage of New Voices legislation in [13 states](#), in various forms. The Vermont bill is based on a similar bill that was introduced in [New Jersey](#) in 2016. S.18 provides that student expression in school-sponsored media may not be abridged except in specific the specific listed instances.

Ken Page, of the Vermont Principals' Association testified on the bill on Tuesday, January 24. His testimony can be found [here](#). He stated that the bill needs significant work to clarify its provisions, but that it represents an important area of focus for students and administrators alike. Our associations will continue to work with the committee to refine the bill's provisions to reflect content that schools are required to monitor, such as publications that may subject other students to harassment or bullying. Our associations are also interested in including obscenity in the forms of expression not protected by the bill .

### ***House Education Committee Monitors Act 166 Implementation***

Last week, the House Education committee began a review of Act 166 implementation. [Jeff Francis](#) of the VSA provided the committee with [survey results](#) regarding Act 166 implementation in 14 supervisory unions. The results indicated that while the provision of 10 hours of publicly funded prekindergarten is a crucial investment in early intervention for 3 and 4 year olds, adjustments to the Act are needed in order to ensure that the Act is successfully implemented statewide.

The committee heard from [Donarae Dawson](#), Director of Student Services in Washington West Supervisory Union. She told the committee that Act 166 presents difficulties in her SU stemming from joint AOE/AHS administration of the law. Since neither Agency has ultimate authority to implement the law, guidance to the field has been inconsistent and at times confusing.

Dawson also described problems surrounding the provision of special education services outside of a supervisory union/district. The supervisory union/district of residence has no obligation under federal or state law to provide those services to students who attend publicly-funded prekindergarten outside the boundaries of the supervisory union. Because prekindergarten vouchers can be used in any approved private provider in the state, it would be cost prohibitive to require supervisory unions/districts to provide special education services in every private

setting. This means that students with disabilities do not have access to the same range of private providers that their non-disabled peers do.

Barre Superintendent [John Pandolfo](#) testified about the changes that Barre Supervisory Union has made in order to offer half day prekindergarten in both school districts. Though participation in the program has increased, Pandolfo voiced concerns that students living in poverty are not accessing the program at the same rate as children not living in poverty.

According to testimony provided by [Nicole Mace](#) of the VSBA, in the 2016-2017 school year, there were 7,300 students enrolled in prekindergarten. There are 139 prequalified public programs and 233 prequalified private programs eligible to receive Act 166 vouchers. By way of comparison, in the K-12 system there are 390 public and independent schools serving 80,000 publicly-funded students. The estimated cost of providing prekindergarten vouchers is \$32 million. Given the magnitude of this investment, and the benefits of high quality prekindergarten, the VSBA recommends that Act 166 implementation be monitored against the goals of Act 46: quality, equity, efficiency, transparency and accountability.

Our associations will continue to work with policy makers and stakeholders to ensure that Act 166 is implemented in a way that ensures these funds are invested in a way that provides quality, equity, efficiency and transparency and accountability.

### ***Legislative Fix for Pre-K Student Count Moves Forward***

This fall, many private providers of prekindergarten did not complete their employees' required fingerprint-supported background checks in time for the start of the school year. As a result, the pre-k students in these programs could not be included in the average daily membership count that the Agency of Education conducts each October. [Unadjusted](#), the artificially low count would cause many districts to have higher per pupil expenditures, causing their tax rates to be artificially high for FY18.

The solution proposed by the Agency of Education, [S.1](#), would allow the Agency to conduct a second count in February, which would capture pre-k students whose providers are now compliant with the background check requirements. The bill has broad support in both the Senate and the House, and is expected to pass as introduced. The full Senate is expected to pass

the bill on Wednesday. We expect the House Education committee to take it up initially by the end of this week.

### ***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 of the Report, 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](mailto:esimmons@vtsba.org).

For a list of representatives and senators by supervisory union, click [here](#).

### ***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.

[H.23](#) : *An act relating to building resilience for persons experiencing adverse childhood experiences*. This bill would, in its relevant portion, require school nurses to participate in training on the Vermont Family Based Approach to provide family wellness coaching. It also directs the Vermont Principals Association, Vermont Superintendents Association, Vermont School Boards Association, and the Vermont National Education Association to, with the Agency of Education, develop a plan for creating a trauma-informed school system throughout Vermont.

Sponsors: Representative Till and many others.

[H.28](#) : An act relating to creating a public option for health care coverage. This bill would create a publicly funded health insurance option available to all Vermonters. Public employers, including school districts, would be required to offer only the public option to their employees, and health insurance would no longer be a subject of collective bargaining.

Sponsor: Representative Poirier

[H.49](#) : *An act relating to the State Board of Education and Concurrence by the Secretary of Education of proposed rules.* This bill would require that the Secretary of Education give his or her concurrence to rules proposed by the State Board of Education as a prerequisite for the proposed rules to take effect on or after September 1, 2017.

Sponsors: Representatives Sullivan, Browning, Dunn and Gannon.

[H.98](#) : *An act relating to the elimination of strikes and imposed terms in connection with collective bargaining for teachers' and school administrators' contracts and the formation of a task force.* This bill would prohibit impositions of contracts by school boards and strikes in connection with teachers' and school administrators' contracts. It would require a study committee to examine other states' methods of contract negotiations resolution and make a recommendation to the General Assembly in November of 2017.

Sponsors: Representatives Wright, Brennan, Browning, Condon, Dakin and Myers.

[H.100](#) : *An act relating to sudden cardiac arrest prevention during school athletic activities.* This bill would require the Secretary of Education to publish informational materials about the nature and warning signs of sudden cardiac arrest to parents and students at the beginning of each school year. It would also require schools to hold informational meetings prior to the start of each athletic season for all participants in athletic activities. The bill would also stipulate that participants in sports who show symptoms of sudden cardiac arrest to be immediately removed from play. Finally, the bill would require annual training for athletic staff members and school board-adopted penalties for violations of the bill's provisions.

Sponsor: Representative Till.

### **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.

**S.15** : *An act relating to amendments to Act 46 to facilitate the approval of alternative governance structures and extend time frames.* This bill would extend Act 46 time frames by one year and make changes to the alternate structure approval process.

Sponsors: Senators Kitchel, Benning, Campion, McCormack, Pollina, Rodgers, Sears, Starr, and Westman.

**S.18** : *An act relating to freedom of expression for students.* This bill would place limits on the ability of schools to regulate the content of school-sponsored student publications.

Sponsors: Senators White, Balint and Baruth.

**S.24** : *An act relating to the State Board of Education.* This bill would eliminate the authority of the State Board of Education to adopt rules, and would transfer the rulemaking authority to the Secretary of Education. It would also eliminate the State Board of Education's nominating role in the selection of a Secretary of Education.

Sponsors: Senators Campion, Sears, Benning, Branagan, Degree, Floy, Kitchel and Westman.