

Education Legislative Report

April 6, 2017 – Issue #10

Senate Finance Committee Begins Consideration of Education Finance Bill

On Wednesday, March 29, the House gave final approval to its education finance bill, [H.509](#). The bill sets the FY 2018 non-residential tax rate and the income and property dollar equivalent yields. The statewide rate for non-residential property is \$1.55. The dollar equivalent yield on homestead property is \$10,077, and the dollar equivalent yield on income is \$11,851.

H.509 also creates a process intended to eliminate unfunded mandates. Sections 3 - 5 of the bill dictate that any legislation enacted into law that will have an associated direct cost to schools will be analyzed by the Joint Fiscal Office and the Emergency Board to estimate the cost to districts. That cost will be included in the Governor's proposed budget for the following fiscal year. The money to fund the mandate would then become a part of the General Fund transfer to the Education Fund.

Section 6 of the bill allows study committees to provide for the transfer of debt or assets from the school district to the town in the Articles of Agreement that are developed as part of the union school district formation process. If the voters of a town approved these articles of agreement, the debt of the merging school district would be retained by the town, and serviced by the municipal taxes of the town.

The Senate Finance Committee reviewed the bill for the first time on Tuesday, April 4. The committee asked to review unfunded mandates from previous years to evaluate what the potential cost to the General Fund would

be. We expect the Senate Education Committee will review the non-tax provisions of the yield bill after the Finance Committee completes its review.

PreK Bill Referred to House Human Services Committee

On March 24, the House Education Committee approved [H.517](#), which seeks to address implementation challenges associated with Act 166. As detailed in previous Reports, the bill would separate the provision of PreK education

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to three and four year olds in public schools and the delivery of child development programs for three and four year olds in private settings.

Under the bill's provisions, parents retain the ability to access the state-provided benefit for 3 and 4 years olds in either a public school program or through a private provider. However, school districts, and the Education Fund, are only obligated to cover the costs associated with programs administered by the school district.

Parents who select private programs would be eligible, based on income, for a child care development subsidy to cover all or part of the cost of enrolling a qualified student in a high quality program. These programs, as well as the administration of the subsidy, would be regulated by the Child Development Division of the Agency of Human Services.

Families opting to enroll a student in a public school PreK program could continue to do so at no cost. Public schools operating a PreK program would count enrolled resident students in the district's average daily membership and fund the program through the district budget. Public schools could enroll nonresident PreK students on a space-available basis, by using a lottery system. The Agency of Education would have oversight of all public school PreK programs.

The bill would also redirect the state lottery proceeds from the Education Fund to the General Fund in order to pay for the childcare subsidies. This year the lottery proceeds total \$24 million. Our associations strongly oppose this move. Current costs of PreK in private providers total approximately \$13 million. This provision would divert another \$11 million from the Education Fund into the child care system, which would put greater pressure on property taxes.

Following the unanimous vote in the Education Committee, the bill was referred to the Human Services Committee on March 29. Since that time, the committee has not considered the bill, as it was also directed to review H.170, the House's marijuana legalization bill. We expect the Human Services Committee to take up H.517 next week, at the earliest.

Bill Directs Agency of Human Services to Create Trauma Informed School System

[S.90](#) is a bill that proposes several new initiatives to address the growing number of students entering school with adverse childhood experiences (ACEs.) It calls for the Deputy Secretary of Human Services to coordinate trauma prevention and treatment efforts with those already existing in the Agency of Education, and to create a plan for a trauma informed school system throughout Vermont.

Specifically, the bill directs the Deputy Secretary of Human Services to disseminate training materials on about identifying children with ACEs to PreK teachers. It also would require school nurses to attend training provided by the Agency of Human Services in order to serve as members of community health teams for a region. These teams would serve as a referral service for children and families experiencing trauma or ACEs. The bill does not include an appropriation to support this work in schools.

VCSEA will be offering testimony on S.90. That testimony will stress the importance of mental health treatment and education to support children experiencing ACEs. While ACEs result in health impacts later in life, physicians and school nurse are not the locus of treatment. The focus should be on the mental health services available to children in Vermont. Currently, the designated agencies are woefully underfunded to address the demand of the call for service to treat children experiencing trauma. A better approach to addressing trauma in schools would be to provide funding to support mental health services for students.

House Miscellaneous Education Bill Referred to Senate Education Committee

On Friday, the House Education Committee passed [H.513](#), its miscellaneous education bill. Sections 1-8 are provisions requested by the Agency of Education to respond to the new federal Every Student Succeeds Act (ESSA.) These same sections appear in the Senate's miscellaneous education bill.

Section 9 increases the reimbursement for members of the Advisory Council on Special Education. The new per diem would be the same amount as is paid to members of other state councils.

Section 10 would require that a school district give notice of renewal or non-renewal to a principal by February 1 in the year that the contract expires.

Sections 11 and 12 include language intended to solve the fingerprint-supported criminal records check issues created by Act 166. This issue is discussed below.

The bill was referred to the Senate Education Committee, which reviewed the bill for the first time on April 4. Many of the same provisions in H.513 were also included in the Senate's miscellaneous education bill, S.130. In all likelihood, the two bills will be reconciled in a conference committee at the end of the legislative session.

Senate Education Committee to Weigh Solutions to PreK Criminal Record Checks

As part of its work on H.513, the Senate Education Committee will evaluate a proposal made by AHS and AOE regarding fingerprint-supported background checks for employees who work in PreK settings.

Current law creates a conflict between the duties of superintendents to ensure background checks are conducted by contracted entities, and federal obligations of the Agency of Human Services. The language in H.513 attempts to separate and clarify where responsibility for background checks rests. It does so by adding a new provision of Section 255 of Title 16, which states that a superintendent or headmaster is not responsible for background checks in any “child care facility.” It also changes the definition of “child care facility” in Title 33 to exempt prequalified PreK programs operated by a public school.

The committee will take testimony this week from the Secretary Al Gobeille of AHS and Secretary Rebecca Holcombe of AOE on the records check provisions. Legal counsel from both agencies will also testify regarding the administration’s preferred [approach](#) to addressing the issue.

AOE and AHS have put forward a solution that would create three spheres of responsibility for records checks. An educator seeking a license to work in any setting in Vermont would submit his or her fingerprints to the Agency of Education. At the discretion of a school district, that individual could undergo a second check for employment purposes, which would be conducted by the superintendent. Superintendents would retain responsibility for conducting background checks for all non-licensed staff who have unsupervised contact with children. Employees in CDD-regulated child care facilities, including public school-based PreK programs, would submit to a record check by CDD.

Superintendents, AOE and AHS would be required to create and maintain a shared registry containing information about who has been cleared through the criminal record check process. The information available through the registry would include name, social security number, date of clearance, and whether the person was granted a waiver. AOE, AHS and superintendents would be required to accept information from the registry, and would not be permitted to share the actual results of the record check across agencies. A superintendent would be permitted to request a secondary record check from an individual who the superintendent has cause to believe has committed a crime during the course of his or her employment. A superintendent would also be permitted to ask for a secondary check as a condition or hiring an individual.

Our associations believe this construct is overly complex. We support the language that is currently included in H.513 because it does not have three separate entities responsible for conducting criminal record checks for school employees.

House Education Committee Begins Work on S.122

[S.122](#) is a bill that makes modifications to structures eligible for incentives under Acts 153, 156 and 46. The House Education Committee began to review the bill on March 29. The committee also held a public hearing on the bill on April 4.

Nicole Mace of VSBA [testified](#) on S.122, describing the flexibility within the bill as an appropriate balance of the need to maintain the essential elements of the law with the need to respond to challenges communities face in merging into a structure eligible for incentives under current law. She also outlined several changes that the VSBA feels should be made to the bill as passed by the Senate.

S.122 creates a new “side-by-side” structure that can include two sides that involve merger of districts, but one side (known as an “existing district”) which does not merge. All districts in a three-by-one or two-by-two-by-one structure would be exempt from the final statewide plan. The “existing district” must meet one of several criteria to qualify. One of those criteria is that the district has greatly differing levels of indebtedness from all adjoining districts. Our associations believe this qualification should be eliminated. To allow a district within a supervisory union that has the ability to merge because it has the same operating structure as those around it simply because it has greatly differing debt from the others constitutes a significant shift. The better approach to addressing debt issues is the one included in H. 509.

On April 4, the House Education Committee held a public hearing on S.122. Many members of the public attended to express their views on Act 46 and the changes contemplated by S.122. Some of those testifying asked the committee to either repeal Act 46 or reject the S.122 approach and instead make significant changes to Act 46, like those in H.15, a bill that would allow alternative structures to be exempt from the final statewide plan.

Today, April 6, the House Education Committee voted 9-2 against taking up H.15 for further consideration. Now the committee will focus its work on S.122. The committee requested that our associations provide a summary of the changes in S.122 and the districts and/or study committees that could be impacted. That document can be found [here](#).

Bill Would Create Racial Justice Oversight Board

[H.492](#) would create a body responsible for review and make recommendations to address persistent racial disparities in statewide systems of education, labor and employment, economic development, health care, and housing. The bill, which originally focused primarily on criminal justice reform, has expanded to include education and other areas of state government.

The oversight board would be tasked with an ongoing formal review of racial justice reform across the State by monitoring the collection and publication of race-based data, recommending policies and trainings to address systemic implicit bias, and evaluating racial justice policies, practices, and results statewide. Although the board's authority would include a review of the education system, there is not currently a seat on the board set aside for an educator or administrator from a Vermont public school. Our associations feel strongly that if the Racial Justice Oversight Board's work is to include a review of schools and school policy, it should be informed by someone with direct experience in the field. We hope to see a future draft of the bill include a representative from the Agency of Education or another educator seat.

House of Representatives Passes Budget and Tax Bills

On March 31, the House passed [H.518](#), the budget bill, and [H.516](#) the miscellaneous tax bill. Together, these bills close a \$72 million gap between revenues and expenditures. The budget cuts approximately \$67 million from state government and programs. The remaining \$5 million comes from revenue anticipated from tighter enforcement of existing taxes. The House's budget does not rely on Governor Scott's recommendations that would have balanced the state's budget through level-funding school district budgets and transferring child care and higher education costs from the General Fund to the Education Fund.

The budget bill does not include changes to education funding, or to school district employee health insurance, although both topics were examined in committee discussions as potential sources of savings. H.518 does create a [PreK to 12 education spending study committee](#). The legislative study committee will be made up of one member each from the House Education Committee, House Ways & Means Committee, the Senate Education Committee and the Senate Finance Committee. It will also include two members of the community, to be selected by the Speaker of the House. The Chair of the committee will be the Secretary of Education. The charge of the committee is to examine the cost drivers in school districts and to recommend strategies

to slow education spending growth. The committee is to present its recommendations to the General Assembly in the form of draft legislation by December 1, 2017.

Our associations strongly believe that the study committee ought to include local school officials. Vermont's education system relies on a partnership between state and local elected officials. Progress on shared goals must be accomplished through collaboration and trust. If this committee is going to make substantive recommendations regarding strategies for cost containment at the local level, school officials ought to have a seat at the table to inform the discussions. This makes it more likely that the recommendations will have broad support.

H.197 Expands Workers' Compensation to Cover Mental Health Conditions

[H.197](#) is a bill originally intended to expand workers' compensation coverage to first responders, such as police and firefighters, who suffer mental health injuries on the job. A more recent [draft](#) of the bill would expand the mental health coverage to all employees in Vermont, with coverage for any mental health condition arising out of a work-related event or work-related stress. Work-related stress would be considered a personal injury for workers' compensation purposes if it is "extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations."

Currently, the standard for work-related stress injuries requires a claimant to have experienced stress of a greater degree than other "similarly situated" employees. H.197 would lower the standard by comparing a worker's stress to that experienced by an average employee across all occupations. If enacted, this language will most likely result in substantial increased litigation and costs for Vermont schools.