

# Education Legislative Report

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In order to consolidate all education bills at the end of the legislative session, the House attached the contents of S.122, which was a package of Act 46 adjustments, to the miscellaneous education bill, H.513. H.513 was submitted to a committee of conference, which met to work out the differences between House and Senate provisions. Both the House and the Senate have approved the final bill. It will now be sent to the Governor for his signature.

Below is a section-by-section summary of [H.513](#) beginning with the miscellaneous, non-Act 46 provisions. The discussion of changes to Act 46 begins on page 4.

## **Miscellaneous Provisions of H.513**

Section 24 of the bill requires that a school district give notice of renewal or non-renewal to a principal by February 1 in the year that the contract expires. VPA advocated for this change to ensure that principals are given notice of contract renewal or non-renewal in advance of the notice that is issued to teaching staff each year.

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Sections 25 – 33 are technical corrections requested by the Agency of Education to respond to changes in federal law and to reorganize certain provisions of Title 16.

Section 34 responds to concerns related to fingerprint-supported background checks for preK providers. It does so by adding a new section to 16 V.S.A. 255 that exempts superintendents from the requirement to conduct fingerprint-supported background checks for individuals operating or employed by child care facilities. Under VT law, preK programs in public schools fall within the definition of child care facility.

Superintendents are allowed, but not required, to conduct an additional check as a condition of hiring an employee to work in a PreK program that is operated by the school. The provision is effective on passage. Section 34 also addresses background checks for Act 77 partners outside the school setting. Background check requirements will not apply to partners in Act 77 student

placements or programs, but superintendents will not be prohibited from requiring a fingerprint-supported record check pursuant to a district policy for these partners.

Section 35 requires the Agency of Education, the Agency of Human Services, VSA, VSBA, and VT-NEA to consider and make recommendations on the criteria used for determining weighted long-term membership of a school district. The study must consider whether to add a new factor for school district population density, or to adjust the weights for poverty or English language learners. The AOE is to submit a report to the legislature detailing the group's recommendations on or before December 15, 2017.

Section 36 is a change for independent colleges included as a response to Burlington College abruptly closing last year. It requires The Association of Vermont Independent Colleges to maintain a memorandum of understanding with each of its members that will govern the administration and protection of student records if one of the college unexpectedly closes. Last year, the Agency of Education had to expend significant resources to safeguard Burlington College student records.

Section 37 requires the secretaries of AHS and AOE to present recommendations to amend Act 166 (universal PreK) on or before November 1, 2017. In March, Secretary Holcombe and Secretary Gobeille [testified](#) in the education committees, where they acknowledged that Act 166 has serious flaws that must be addressed. The bill requires the secretaries' recommendations to ensure equity, quality and affordability, and reduce duplication and complexity in the current delivery of PreK services.

Sections 38 and 39 are technical changes requested by AOE to clarify definitions related to adult education and literacy.

Sections 40 - 41 change current law governing the Vermont Standards Board for Professional Educators to require that one member be a superintendent. VSA advocated for this change to ensure that a superintendents, who are responsible for supervision of all educators within their systems, are represented on the licensing board. There is a transition provision that requires the next open administrator seat on the board to be filled by a superintendent.

Section 42 responds to the State Board of Education's proposed Rule 2200 Series on the approval of private schools that accept public tuition dollars. It creates a legislative study committee to make recommendations for State Board rules governing independent school admissions processes, how special education will be provided in these schools, and what types of financial and other reports should be provided to the Agency of Education. The committee is made up of ten members: the chair of the State Board, the Secretary of Education, the Executive Directors of VSBA, VCSEA, VSA and the Vermont Independent Schools Association, two members of the Council of Independent Schools, one member of the Senate, and one member of the House of Representatives. The State Board must suspend further development of its current amendments to the independent school rules, and wait for the study committee's report, which will issue on or before December 1, 2017.

Section 43 creates an appropriation to the Vermont State Colleges to evaluate training programs for skilled trades such as plumbing and electrical. The State Colleges will receive \$20,000 from the Next Generation Initiative Fund to support that work.

Section 44 addresses the requirements for a district to be eligible for small schools grants. In some districts, the addition of prekindergarten students to the average daily membership caused the district to become ineligible for a small schools grant. This change would exclude PreK students from the definition of "enrollment" used to determine small schools grant eligibility.

Section 45 makes changes to the steps a PreK program must complete in order to be eligible to receive Act 166 dollars. With this change, a four star program may write a plan to achieve at least two points in each of the five arenas. A three star program may develop a plan to achieve four or more stars with at least two points in each of the five areas in no more than three years. This change was needed to correct an ambiguity in Act 166 that allowed three star programs to write a plan to improve, but did not allow a four star program to write a plan.

### ***Freedom of Student Expression***

Sections 46 and 47 are provisions originally introduced as S.18, a bill relating to student expression in school-sponsored media. School-sponsored media is any material prepared, written, published, or broadcast as part of a school-supported program or activity by a student that is distributed or generally made available as part of a school-supported program or activity beyond the classroom in which the material is produced.

The bill prohibits schools from restricting content in school-sponsored media, except in cases of material that is libelous or slanderous, invades another individual's privacy, may be defined as harassment, hazing, or bullying, violates law, or creates an imminent danger of inciting students to violate law, school rules or substantially disrupt the school's operation.

The bill also directs districts to adopt a written policy consistent with its provisions. The VSBA will work to make a model policy available to districts as soon as possible, assuming the Governor signs H.513 into law.

### ***Act 46 Provisions***

Section 1 of H.513 includes findings. In part they state that as of May 1, 2017, 105 towns have voted to merge 113 school districts, resulting in the creation of 23 new unified districts. As of May 1, sixty percent of Vermont's school-aged children live, or soon will live, in districts that meet the goals of Act 46. The findings also state that the bill is intended to make useful changes to the merger timelines and allowable governance structures under Act 46, but that nothing in the bill makes it acceptable for a district to fail to take reasonable and robust action to meet the goals of Act 46.

In Section 2, H.513 removes the requirement that at least one "side" in a "side-by-side" structure operate PK-12. It extends the deadline for districts forming a "side-by-side" to November 30, 2017.

Section 3 creates a new "three-by-one side-by-side." It allows an existing, unmerged, district to form a supervisory union with at least three merging districts on the other "side." The "three-by-one side-by-side" would be exempt from the final statewide plan. The merged side would be eligible for incentives. To qualify as an existing district, a district must be either geographically or structurally isolated. A district may qualify as structurally isolated even if it is next to a district with the same operating structure as the existing district if that district has merged or reached final agreement to merge.

Section 3 includes a procedure for forming a "three-by-one." All districts must jointly submit a proposal to the State Board demonstrating the following: that the "three-by-one" structure is better suited to them than a preferred structure and that it meets the goals of Act 46; that each

existing district qualifies as either geographically or structurally isolated; and, that each existing district will continue to improve its performance on each of the Act 46 efficiency goals. Additionally, the merged districts must receive final voter approval of their merger by November 30, 2017. The existing district must obtain final voter approval to be an existing district in the “three-by-one” by November 30, 2017. Finally, the structure must become operational on or before July 1, 2019 with the same date of operation for both “sides.”

Section 4 creates a new “two-by-two-by-one side-by-side.” It allows one existing district to join a supervisory union with two merging “sides” created by at least two districts each. The “two-by-two-by-one side-by-side” would be exempt from the final statewide plan and the merged sides would be eligible for incentives. As above, to qualify, the existing district must be either geographically or structurally isolated. A district may qualify as structurally isolated even if it is next to a district with the same operating structure as the existing district if that district has merged or reached final agreement to merge. A “two-by-two-by-one side-by-side” must follow the same formation process as described in Section 3. All “sides” must obtain final voter approval by November 30, 2017 and become operational on the same date, on or before July 1, 2019.

Section 5 allows Vernon to withdraw from its union high school district without the approval of all remaining member districts. Section 6 repeals the provision on the date that Vernon’s withdrawal becomes effective.

Section 7 amends alternative structure guidelines that are currently in Act 46. It adds detail to the guidelines that the State Board of Education must consider in approving an alternative structure as part of the final statewide plan.

Under Act 46, the State Board may approve a supervisory union composed of multiple member districts, if it is able to meet the goals of the Act. Current law lays out four factors that the State Board should consider in determining whether the goals will be met within a proposed alternative structure. H.513 adds criteria and adds more detail to several existing factors.

First, an alternative structure should demonstrate that member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union (existing law.) Second, the supervisory union must operate in

an efficient manner, sharing resources among member districts where possible. H.513 clarifies that the supervisory union does so by meeting its obligations under 16 V.S.A. 261a (centralization of functions such as special education, transportation, curriculum, etc), which may also include a common personnel system in order to increase the ratio of students to full-time equivalent staff. Third, a consideration is added to the requirement that the supervisory union include as few member districts as is practicable. H.513 allows the State Board to consider greatly differing levels of indebtedness between member districts as justification for them to remain separate districts within the supervisory union. Finally, H.513 lowers the average daily membership guideline for an alternative structure from 1,100 to 900.

Section 8 also clarifies the State Board's process for approving alternative structure proposals. Now, the State Board is granted the discretion to hear and consider alternative structure proposals at any time after October 1, 2017 and before November 30, 2018. Districts submitting proposals for alternative structures will have an opportunity to consult with AOE and/or the State Board and amend the proposal accordingly, before the State Board makes a final decision on the proposal.

Section 8 also sets out a process to allow districts merged pursuant to the final statewide plan to develop their own Articles of Agreement to govern the newly formed district. H.513 states that the State Board will include default articles in its publication of the final plan. Districts merging under the plan will be allowed to form committees, using the same process as 16 VSA 706, in order to amend the default articles. The committee will have 90 days, during which it must hold at least one public hearing, to complete its work. If the committee cannot come to agreement, or if the articles are not adopted, then the State Board's default articles will govern the district until the district amends them or adopts new articles. The VSBA, VSA and AOE are directed to work together recommend legislation clarifying which articles must be amended by the electorate, and which may be amended by a vote of the unified union board. Current law was written to govern union high school district articles, leaving some ambiguity in application to unified union school districts.

Section 8 provides a \$10,000 transition facilitation grant for districts that are not subject to the statewide plan, but that agree to take on an "orphan" district in their region at the request of the State Board pursuant to the final statewide plan, or at the district's own initiative. If the merger is initiated by the district rather than the State Board, the merger must become operational

before November 30, 2018. The grant is available for each district that merges, so a unified union school district accepting three “orphan” districts would receive a total of \$30,000.

Section 8 also exempts all supervisory districts with average daily membership of at least 900 from the final statewide plan.

Section 9 requires the State Board to publish a list of districts that would be considered “geographically isolated” on or before September 30, 2017. This list is necessary because Act 46 dictates that after July 1, 2019, small schools grants will either be converted into merger support grants for districts that will have merged by that time, or awarded only to qualifying school districts. Qualifying districts must either be geographically isolated or demonstrate that they meet the state board’s standards for academic excellence and operational efficiency in order to receive a small school grant after July 1, 2019.

Sections 10 and 11 are timeline extensions. Section 10 sets the due date for alternative structure proposals as either January 31, 2018 or the date that is six months after the effective date of the State Board’s rules on alternative structures, whichever is earlier. Section 11 is a blanket extension for districts seeking to merge and qualify for incentives under Acts 153 and 156. The deadline is moved from July 1, 2017 to November 30, 2017.

Section 12 clarifies that districts that form a preferred structure prior to July 1, 2019 will receive a \$150,000 transition facilitation grant. Section 13 allows study committees to expend up to thirty percent of their study committee grant funds toward community outreach prior to a unification vote. Section 14 requires the State Board to respond to a request for readjustment of supervisory union boundaries within 75 days of receipt.

Sections 15 – 18 are technical corrections. Section 19 clarifies that a unified union school district will be eligible for preferred structure incentives even if it is assigned to a supervisory union by the State Board pursuant to the final statewide plan.

Section 20 states that the State Board may adopt rules to assist districts in submitting alternative structure proposals, but it may not adopt more stringent requirements than provided for in Act 46.

Section 21 is an exemption for the Lemington school district from a provision of Acts 153/156/46 that would hold the district at very high property tax rates for five years if it joined the NEK Choice School District. Lemington pays tuition for all resident students and has experienced volatility in its tax rates for many years. Lemington's current tax rate is over 200% higher than the newly merged district's rate. This change will allow Lemington's tax rate to be the average tax rate of other towns within the merged district, provided that it re-votes to join NEK Choice School District.

Section 22 applies to MUUSDs. It states that a non-member district of a unified union district may not receive tax incentives related to the grades for which it is a member of the MUUSD.

Section 23 addresses the election of unified union school board members. Under current law, vacancies in certain seats on unified union boards must be filled by the selectboard in the corresponding town. This provision would allow the unified union school board to appoint a qualified person to the vacancy, after consultation with the selectboard.