

Education Legislative Report

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Senate Education Proposes Modifications to Act 46

The Senate Education Committee has developed a [bill](#) that would amend Acts 46, 153, and 156 to provide some flexibility to side-by-side structures eligible for merger incentives and to provide additional time for districts that meet objective criteria indicating that more time is needed.

Early in the session, the chairs of the Senate and House Education Committees agreed that the Senate would consider a package of Act 46 amendments first, with the House to follow after Town Meeting Day. Accordingly, the Senate Education Committee started the session with a thorough review of Act 46 implementation by conducting visits to four regions of the state to hear from study committees, school officials, and community members.

The Senate Education Committee’s bill does not include significant changes to Act 46 requirements or timelines. This is because, since the law passed in 2015, most school districts in the state have been working hard to comply with Act 46. There are, however, several areas of the state where districts been unable to make progress on a merger proposal. The bill is intended to respond to these areas.

The bill would allow a new configuration of a side-by-side structure that would allow three merging districts to form one “side” along with one unmerged district as the other “side.” The unmerged “side” must be a district that, at the time of the bill’s passage, is geographically isolated or has an operating/tuitioning structure that is different from all adjoining school districts. The

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two “sides” for this three-by-one structure must have different operating/tuitioning structures from each other. The bill would eliminate the requirement that one “side” operate grades PK-12.

Sections 3 and 4 of the committee bill would extend timelines for districts in study committees that either had a merger proposal rejected by voters or that add a new district to a study committee after passage of the bill. In these instances, a study committee’s deadline for voter approval of a merger would be extended from July 1, 2017 until November 30, 2017. Similarly, in Section 6, the deadline for submitting an alternative structure proposal would be extended for districts that meet the criteria above from November 30, 2017 until January 31, 2017.

Section 5 allows a district that forms a conventional merger prior to July 1, 2019 to receive a \$150,000 transition facilitation grant.

In Section 7, the bill would provide a \$10,000 transition facilitation grant to districts that are protected from 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.

Finally, the bill also allows a study committee to spend grant funds on community outreach and communication with voters in advance of a merger vote.

Miscellaneous Education Bills Take Shape in Education Committees

Both the Senate and House education committees are concurrently considering miscellaneous education bills. The House Education [bill](#) and the Senate Education [bill](#) include many of the same provisions. For purposes of this summary, section references given apply to both bills, unless otherwise specified. Several sections of the miscellaneous education bill make technical changes to statute only, and are not discussed here.

Section 10 would ensure that students participating in dual enrollment are not charged fees, such as lab fees, for courses. This provision caught our associations’ attention because under current law, dual enrollment costs are funded 50% by the Next Generation Fund and 50% by the Education Fund. We learned through committee testimony that in some cases, VSAC and other sources of funds to pay course fees are not available. The General Assembly is grappling with how to assure access to dual enrollment courses for students when the source of funding for fees is unresolved or not apparent.

Sections 11-15 contain language regarding background checks for school employees and private PreK providers, which was proposed by the Agency of Education and Agency of Human Services. There are significant problems with the proposal, which would require three entities to oversee criminal record checks within schools. The committees have requested modified language that addresses the [concerns raised by the VSBA and VSA](#).

Both the Senate and House bills include provisions requested by the Vermont Principals Association that would mandate that a non-probationary principal receive written notice either that his or her contract has been renewed or notice of nonrenewal by February 1 of the year in which the contract expires.

The Senate bill includes a provision requested by the Vermont Superintendents Association that would require one of the administrator representatives on the Vermont Standards Board for Professional Educators to be a superintendent.

Senators Propose to Limit State Board of Education Authority in Response to Private School Rules

Last week Senate Education Committee Chair Philip Baruth included language within the Miscellaneous Education Bill that would dramatically alter the composition and authority of the State Board of Education.

Senator Baruth's proposal would establish that two seats on the ten-member State Board would be reserved for representatives of independent schools. Independent school students constitute 3% of the total publicly-funded K-12 population. There are currently no other positions on the State Board specifically designated for any class or category.

The proposal would reduce the term of members of the State Board from six years to four years. In addition, it would strike a current requirement that the Governor choose a nominee for Secretary of Education from among three candidates submitted to him or her by the State Board of Education.

Most significantly, the proposal would nullify all aspects of the current rulemaking process for Rule 2200, which are the rules governing independent school approval. It would also prohibit

any future rulemaking by the State Board that would apply requirements for independent schools similar to those applied to public schools.

The proposal would establish a study committee on rules for approval of independent schools. The committee would include multiple parties of interest, but would be tilted in favor of the independent schools.

There is no doubt that this proposal was brought forth in response to deliberations by the State Board of Education related to potential revisions to State Board Rule 2200 - Independent Schools. It appears to have been triggered by the State Board's decision last week to delay a vote on initiating the rulemaking process on Rule 2200 until May.

The State Board's process for considering Rule 2200 changes has been dynamic - with many parties from across the education community weighing in. There are complex issues to be resolved. The two most controversial are a requirement that independent schools receiving public dollars provide special education services and have an open enrollment process for publicly funded students. Representatives of the independent schools have opposed those provisions since deliberations started.

In our view, this action by the Senate Education Committee would negate the proper policy role of the State Board of Education. The State Board of Education has acted [within its statutory authority](#) to promulgate rules governing the approval of independent schools. This process, which has been ongoing since November of 2015, has appropriately drawn attention to what obligations come when private, independent schools receive public education dollars. This critical discussion requires less, not more, politicization.

House Education Committee Drafts Career Technical Education Bill

The House Education Committee has released a [draft bill](#) intended to increase the number of students who participate in career technical education. The committee is hoping to address concerns that school districts have adverse incentives to encourage students to enroll in CTE centers. The bill would also create a competitive grant for offering certain CTE experiences to 7th grade students.

The major change proposed by the bill would establish a pupil weight for secondary CTE students at 1.5. Currently, there is no provision for weighting CTE students, although secondary

students are weighted by 1.13. This provision is intended alleviate budget pressure in districts that have more CTE students.

The bill also proposes to create a grant program administered by the Agency of Education to fund equipment and supplies for 7th grade students to support CTE programming. The grants would be awarded by the AOE on a competitive basis. The total proposed funding for the grants is \$1 million. These funds were included in Governor Scott's budget proposal as career technical education innovation grants.

House Education Committee Reviews Revised PreK Bill

On Friday, the House Education Committee reviewed a revised [committee bill](#) that would reorganize the PreK delivery system. Under the bill's provisions, parents would retain the ability to decide whether to use a PreK voucher at either a public school program or a private provider.

However, the bill would call for a separation of PreK delivery with public schools that provided PreK education being overseen by the Agency of Education and private providers operating under regulation by the Department for Children and Families. Public school PreK programs would be required to follow rules developed by the Agency of Education. Private providers would be subject to rules developed by the Department for Children and Families. Public PreK programs would be required to follow open enrollment provisions, similar to those that govern public high school choice.

This important issue requires detailed analysis and will be a subject of our next *Legislative Report*.

Senate Passes Farm-to-School Bill With Relaxed Bidding Requirement

Recently, the Senate passed [S.33](#), a bill that expands the Rozo McLaughlin Farm-to-School Program, which provides grants to school districts for farm-to-school endeavors. S.33 amends portions of the law that pertain only to the Agency of Agriculture, which administers the Farm-to-School Program.

Worth noting is the fact that for acquisitions and services associated with school food service programs, the Senate relaxed the bidding requirements. Under the bill's provisions, school

districts would only need to bid when costs exceed \$25,000 rather than \$15,000 for other categories of purchases.

New Bills Affecting Education

In each Education Legislative Report, we report extensively on education bills under consideration in committees, and at the end of the Report, we regularly list all newly released bills that appear to have provisions related to education. Education bills released since the publication of our last Report are listed below.

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.

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

House Bills

[H.266](#) : *An act relating to public funding of out-of-state independent schools.* This bill proposes to no longer allow tuition vouchers to be used at private or independent schools outside the state of Vermont.

Sponsors: Representatives Head, Dunn, Kitzmiller, LaLonde, Pugh, Stuart, Sullivan, Till, Townsend and Walz.

[H.267](#) : *An act relating to prohibiting public funding of independent schools.* This bill would prohibit public tuition vouchers from being used at independent schools.

Sponsors: Representatives Head, Dunn, Kitzmiller, LaLonde, Luke, Pugh, Sullivan, Townsend and Walz.

[H.270](#) : *An act relating to increasing expanded learning opportunities.* This bill proposes to create an Expanded Learning Opportunities grant program to expand offerings to students during the summer.

Sponsors: Representative Lanpher and many others.

[H.274](#) : *An act relating to rural schools.* This bill would require the Agency of Education to report to the General Assembly with recommendations on three topics: the creation of a new population density weighting factor, the minimum offerings rural high schools should be required to have, and the likely consequences of rural high schools closing, including advice for mitigating those consequences.

Sponsors: Representatives Sibia, Gannon, Jickling, and Olsen.

[H.296](#) : *An act relating to school district consolidation.* This bill would create a new governance structure to be eligible for Act 46 incentives, wherein three districts merge to form a district alongside one existing district. This arrangement is sometimes referred to as a “three-by-one” side-by-side. The bill would also lower the ADM requirements for several incentive-qualified structures.

Sponsors: Representatives Browning, Bartholomew, Briglin, Gannon and Masland.

[H.301](#) : *An act relating to the assessment of high school student performance.* This bill would direct the State Board of Education to adopt the SAT exam as the state’s measure of high school student performance.

Sponsors: Representatives Luke, Cupoli and Fagan.

[H.303](#) : *An act relating to responsibility for providing transportation service.* This bill proposes to allow a school district, rather than a supervisory union, to be responsible for provision of transportation in certain instances.

Sponsor: Representative Botzow.

[H.304](#) : *An act relating to making changes to the calculation of the statewide education property tax.* This bill would make changes to the calculation of education property tax rates to place greater pressure on higher spending districts and to alleviate tax pressure on lower spending districts.

Sponsors: Representative Beck and many others.

[H.318](#) : *An act relating to creating an education property tax that is adjusted by income for all taxpayers.* This bill would create a system for payment of education property tax on income for all payers.

Sponsors: Representative Haas and others.

[H.329](#) : *An act relating to high school curriculum.* This bill would mandate that high school curriculum include instruction on CPR, climate change and civics as part of the minimum course of study.

Sponsor: Representative McCormack.

[H.330](#) : *An act relating to an excess spending penalty for fiscal year 2018.* This bill would exempt certain school districts from the excess spending penalty in FY18.

Sponsors: Representatives Hooper and Jickling.

[H.333](#) : *An act relating to identification of gender-free restrooms in public buildings and places of public accommodation.* This bill would require all places of public accommodation to use signage on single user restrooms that designates the facility as a gender neutral restroom.

Sponsors: Representative Colburn and many others.

[H.365](#) : *An act relating to limiting Education Fund expenditures to expenses controlled by school district spending decisions.* This bill would remove payment of costs not directly attributable to K-12 spending out of the Education Fund.

Sponsor: Representative Browning.

[H.366](#) : *An act relating to ending the suspension of State aid for school construction projects.*

This bill would end the moratorium on state aid for school construction.

Sponsors: Representatives Cina, Burke, Colburn, Dunn, Gonzalez, Haas, O'Sullivan, Rachelson and Weed.

[H.385](#) : *An act relating to the jurisdiction of the Human Rights Commission.* This bill proposes to add bullying as defined in 16 V.S.A. 11a(32) to the list of items under the jurisdiction of the Vermont Human Rights Commission.

Sponsor: Representative Keenan.

[H.391](#) : *An act relating to expanding dual enrollment opportunities for career and technical education.* This bill would direct the AOE to help Vermont State Colleges and the University of Vermont to develop memoranda of understanding with CTE centers to facilitate the award of dual enrollment credit for coursework.

Sponsors: Representative Marcotte and others.

[H.402](#) : *An act relating to creating a statewide per pupil spending amount.* This bill would create a statewide per pupil spending amount, which a district would receive in state aid for education. The district could then spend up to twenty percent above the statewide per pupil amount. Any additional funds above the twenty percent would be raised on the district's local education grand list, not the statewide education fund.

Sponsors: Representatives Greshin, Wright and Condon.

[H.408](#) : *An act relating to establishing a process for accounting for unfunded education mandates.* This bill would mandate that the administration calculate the dollar amount required for carrying out unfunded mandates in legislation each year, and that the amount be included in the Governor's proposed budget for inclusion in the General Fund transfer.

Sponsors: Representative Wright and many others.

[H.409](#) : *An act relating to teacher's health care premium cost share.* This bill would require that teachers contribute at least 20% to the cost of employer-provided health insurance premiums.

Sponsors: Representatives Greshin and Wright.

[H.425](#) : *An act relating to creating a statewide school district.* This bill proposes that the Agency of Education write a plan to transition Vermont to a single school district for the entire state.

Sponsors: Representative Rachelson and others.

[H.426](#) : *An act relating to increasing the weighting factor for students for whom English is not the primary language.* Under this bill, the weighting factor for students who are English language learners would be increased from 1.2 to 1.3.

Sponsors: Representative Wright and others.

[H.437](#) : *An act relating to education taxes for certain school districts.* This bill would negate the impacts of the excess spending threshold on districts that pay tuition for all students and see a sharp increase in education spending from the prior year, for certain districts who are in consolidated Act 46 districts.

Sponsors: Representatives Lefebvre and Ode.

[H.438](#) : *An act relating to health promotion.* This bill directs the AOE and school districts to develop school wellness plans that, in addition to existing requirements, include evidence-based practices throughout the school day to address fitness, nutrition, mindfulness, lighting, architecture and exposure to toxins.

Sponsors: Representative Cina and others.

[H.439](#) : *An act relating to the determination of weighted long-term membership of school districts.* This bill would increase the weighting factor for students who are secondary students, students from economically deprived backgrounds, and students for whom English is not the primary language.

Sponsors: Representative Ode and others.

[H.441](#) : *An act relating to lead testing in schools.* This bill would create a pilot program within the Departments of Health and Environmental Conservation to test the water of 12 geographically diverse schools for lead.

Sponsors: Representative Weed and many others.

[H.448](#) : *An act relating to the elimination of tax and other incentives under Act 46.* This bill would eliminate the Act 46 tax incentives and develop a more equitable way to distribute those funds.

Sponsor: Representatives Masland, Briglin, Hooper and Wright.

Senate Bills

[S.64](#): *An act relating to science-based drug education.* This bill proposes to require the Agency of Education to create a drug education curriculum that would be included in the minimum course of study.

Sponsors: Senators Rodgers and Starr.

[S.74](#) : *An act relating to incentives for lower education spending.* This bill would repeal the current excess spending thresholds and replace them with a penalty on districts spending above the statewide average education spending, and an incentive for lower than average education spending.

Sponsors: Senators Rodgers and Degree.

[S.87](#) : *An act relating to sexual exploitation of students.* This bill proposes to close loopholes in child protection statutes including statutes of limitations for certain sex crimes. It also clarifies that a superintendent or headmaster may not enter into separation agreements inhibiting disclosure about an employee's background involving conduct jeopardizing the safety of a minor. It also creates a study committee to make recommendations for a policy regarding staff electronic communications with students and potential grooming behaviors.

Sponsor: The Senate Judiciary Committee.

[S.89](#) : *An act relating to the manner in which average daily membership is computed for public high school students exercising school choice.* This bill would change the manner of counting the attendance of a student exercising public high school choice. Districts would include students attending the district schools as a function of public high school choice in the district's ADM.

Sponsor: Senator Clarkson.