

Education Legislative Report

March 28, 2018 – Issue #7

House and Senate Approve Significant Education Legislation

The House and Senate each passed several significant pieces of education legislation last week. These bills include changes to: the education funding formula, special education funding with a focus on best practice and high quality first instruction for all students, open meeting law, independent schools' obligations to serve special needs students and pre-K funding and administration.

As leaders of your school systems, you serve as a voice for public education. As your state associations, we work to strongly represent education officials' concerns. Yet, there is no substitute for contact by constituents with their legislators. We encourage you to read our *Reports*, keep abreast of issues, and stay in touch with your house members and senators. Here is a link to Legislators' contact information, organized by supervisory union/district:

http://docs.wixstatic.com/ugd/b44bfd_c9e309b3f77449bda14c5f3cf152c469.pdf

Throughout the session, you will receive regular issues of this *Education Legislative Report*. The *Report* is a collaboration of the Vermont School Boards Association (VSBA), the Vermont Superintendents Association (VSA), the Vermont Principals' Association (VPA), the Vermont Association of School Business Officials (VASBO), the Vermont Council of Special Education Administrators (VCSEA) and Vermont School Boards Insurance Trust (VSBIT).

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Education Funding Bill Passes House

Last week the full House passed [H.911](#), the education finance and income tax reform bill. H.911 proposes to change two funding systems: 1) Vermont's personal income tax; and 2) the education financing system.

Personal Income Tax Changes

Personal income tax changes in sections one through six of the bill would create a Vermont personal exemption, standard deduction, and charitable credit to replace Vermont's current reliance on federal definitions and its current treatment of itemized deductions. The bill also would lower Vermont's marginal personal income tax rates and collapse the top two income tax brackets. Finally, the bill would phase out state taxes from some taxable Social Security benefits. These changes take effect retroactively on January 1, 2018 and apply to taxable year 2018 and after.

New School Income Tax Surcharge

In section seven, the bill creates a school income tax surcharge based on taxable income and dedicated to the Education Fund. The surcharge would correspond to the now four income tax brackets. The surcharge would be equal to: 0.1% on income taxed at 3.35%, 0.5% on income taxed at 6.6% and 7.6%, and 1.0% on income taxed at 8.6%. The income tax surcharge takes effect retroactively on January 1, 2018 and applies to taxable year 2018 and after. For taxable year 2018 only, the bill provides that no interest or penalty shall be assessed for the underpayment of estimated tax for the school income tax surcharge.

The surcharge is estimated to raise \$59 million in revenue for Education Fund in fiscal year 2019. You can see how the new surcharge is applied to different income levels for single and married filing jointly filers in the chart below:

	FY 2019			
	Single		Married	
INCOME TAX SURCHARGE	Income	Income Surcharge	Income	Income Surcharge
	< \$37,900	0.10%	< \$63,300	0.10%
	\$37,900 - \$191,650	0.50%	\$63,300 - 233,300	0.50%
	> \$191,650	1.00%	>233,300	1.00%

Reallocates Sources for the Education Fund

Section eight of the bill sets forth the sources for the Education Fund: (1) all revenue from the statewide education tax on nonresidential and homestead property, (2) revenues from State lotteries, (3) 25% of the revenues from the rooms and meals taxes, (4) one-third of the revenues from the purchase and use tax, (5) all revenues from the sales and use tax, (6) Medicaid reimbursement funds and (9) revenues from the school income tax surcharge.

These changes alter the current sources by: (1) eliminating the transfer from the General Fund to the Education Fund, (2) adding 25% of rooms and meals tax revenues directly to the Education Fund, (3) changing the amount of revenues from the sales and use tax going to the Education Fund from 36% to 100%, and (4) adding revenues from the new school income tax surcharge.

Reallocates Sources for the General Fund

Section nine of the bill changes the sources for the General Fund to reflect the changes made in the previous section: (1) individual income taxes except for the individual school income tax surcharge, and (2) 75% of the rooms and meals taxes.

Changes to Calculation of Homestead Property Tax Rates

Section 10 changes the calculation of the homestead property tax rate as follows: education spending per equalized pupil minus the base spending amount divided by the yield, and then added to the homestead base tax rate. For FY 2019, the base spending amount is \$11,916, the yield is \$8,500, and the homestead base tax rate is \$1.00.

By way of example, if a district’s education spending per equalized pupil is \$15,000 the homestead property tax rate is \$1.36, which is calculated as follows:

$$\begin{aligned}
 & \$15,000 \text{ minus } \$11,916 = \$3,084 \\
 & \$3,084 \text{ divided by } \$8,500 = 0.36 \\
 & 0.36 \text{ plus } \$1.00 = \$1.36
 \end{aligned}$$

More illustrations of calculations based on different levels of education spending per equalized pupil are in the chart below:

	FY 2019			
HOMESTEAD PROPERTY TAX	Ed Spending/ Equalized Pupil	\$18,000	\$15,000	\$12,000
	Base Spending Amount	\$11,916	\$11,916	\$11,916
	Spending over base	\$6,084	\$3,084	\$84
	Property Dollar Equivalent Yield	\$8,500	\$8,500	\$8,500
	Education Property Tax Spending Adjustment	\$0.716	\$0.363	\$0.010
	Homestead Property Tax Rate	\$1.716	\$1.363	\$1.010

Requires Separate Tax Bills

Section 11 requires municipalities to issue separate bills for education taxes and municipal taxes. The bill allocates \$200,000 from the Education Fund for the Commissioner of Taxes to assist towns with the costs associated with issuing separate education and municipal tax bills.

Requires Commissioner of Taxes to Set Statewide Education Tax Yields

Section 12 clarifies that the December letter from the Commissioner of Taxes must now include recommendations for a property dollar equivalent yield, a base income percentage and a nonresidential property tax rate for the following year.

Retains Property Tax Adjustments Based on Income Sensitivity

Section 13 entitles claimants who own a homestead on April 1 to an adjustment based on household income at the following levels: (1) \$90,000 or more, (2) less than \$90,000 but more than \$47,000, and (3) \$47,000 or less.

For income-sensitized residents, the rate would be equal to the spending beyond the base divided by the yield, multiplied by the base homestead income tax rate, which is then added to the base homestead income tax rate. For FY 2019, the base spending amount is \$11,916, the yield is \$8,500, and the homestead base income tax rate is 1.66%.

For example, if a district’s education spending per equalized pupil is \$15,000 the tax rate applied to income is 2.26%, which is calculated as follows:

$$\begin{aligned}
 & \$15,000 \text{ minus } \$11,916 = \$3,084 \\
 & \$3,084 \text{ divided by } \$8,500 = 0.36 \\
 & 0.36 \text{ multiplied by } 1.66\% = .60 \\
 & 0.60 \text{ plus } 1.66\% = 2.26\%
 \end{aligned}$$

More illustrations of calculations based on different levels of education spending per equalized pupil are in the chart below:

	FY 2019			
INCOME SENSITIZED PROPERTY TAX	Ed Spending/ Equalized Pupil	\$18,000	\$15,000	\$12,000
	Base Rate	\$11,916	\$11,916	\$11,916
	Spending over base rate	\$6,084	\$3,084	\$84
	Property/ Income Yield	\$8,500	\$8,500	\$8,500
	Adjusted Yield	71.58%	36.28%	0.99%
	Base income percentage	1.66%	1.66%	1.66%
	Local Spending Factor	1.188%	0.602%	0.016%
	Total tax rate (applied to income)	2.85%	2.26%	1.68%

Sets Yield, Base Income Percentage, Non-Residential Property Tax Rate and Base Spending Amount for Fiscal Year 2019

Sections fifteen, sixteen and twenty-two set the following for Fiscal Year 2019: (1) property dollar equivalent yield is \$8,500 (2) base income percentage is 1.66%, (3) nonresidential property tax rate is \$1.591, and (4) base spending amount is \$11,916.

For fiscal year 2019, the base spending amount is 92% of what it would otherwise be calculated to be, resulting in a higher property dollar equivalent yield for the year. The estimated impacts town by town for fiscal year 2019 can be found [here](#).

For fiscal year 2020, the base spending amount will be 96% of what it would otherwise be calculated to be, resulting in a lower property dollar equivalent yield as compared to the previous year but still higher than what full implementation of the law would require. The estimated base spending amounts and yield for fiscal year 2020 will not be known until the Tax Department issues its December 1 letter later this year.

Full implementation of the base spending amount is expected to increase tax rates higher than current levels for districts that spend more than \$16,000 per equalized pupil. H.911 takes a phased-in approach to full implementation. You can see the projected effects of full implementation on page 5 of [this document](#).

Repeals Excess Spending Penalty and Adds Teacher Retirement to Ed Spending
Section 17 repeals the excess spending penalty. This is because the new calculation of tax rates is intended to make it more expensive for districts to spend above the base spending amount, although the infusion of new revenue into the Education Fund through the income tax surcharge makes that difficult to ascertain in FY 2019.

Section 20 adds the normal teacher retirement contribution to the definition of a school district's education spending. This is the cost associated with the annual contribution to the Teachers' Retirement System for active employees of a district. The Agency of Education is required to notify each district of its teacher retirement contribution that will be included as part of the district's education spending. This requirement goes into effect July 1, 2019 and applies to Fiscal Year 2020 and after.

Repeals Act 46 Tax Rate Limitations

Section 21 repeals the "five percent provision" of Act 46 which limited a merging district's equalized homestead property tax rate increase or decrease and related household income percentage adjustments to five percent in a single year. The five percent provision continues to apply in a limited number of districts, except that it would not apply to limit any reduction in a district's equalized homestead property tax rate or related household income percentage adjustments. These districts include any

merged district within the Taconic and Green Regional Education District, any merged district within the NEK Choice School District, and any district that merges operations after the passage of this act but before July 1, 2019 and whose first fiscal year of operation is fiscal year 2020.

The intent of this provision is to allow merged districts eligible for the “five percent provision” of Act 46 to have it applied if it is more advantageous than the changes to property tax rates and income sensitivity set forth in this bill. The five percent protections are eliminated for every other district that is currently eligible because the General Assembly has determined that the benefits of H.911 would surpass those of the five percent provision.

H.897, A Bill To Enhance The Effectiveness and Equity Of Services Provided To Students Who Require Additional Support, Unanimously Passes House

[H.897](#), passed the House on March 22 as [amended](#). Work is already underway on this bill in the Senate Education Committee.

H.897 proposes to enhance the effectiveness, availability and equity of services provided to all students who require additional support, including students receiving special education services and students who need additional support but do not receive special education services. To support the delivery of these services, the bill changes the funding model for special education from a reimbursement model to a census-based model which provides more flexibility in how funding can be used, is aligned with the State’s policy priorities of serving students who require additional support across the general and special education service-delivery systems, and simplifies administration.

The bill includes the findings from the [District Management Group \(DMG\) report](#) on supports for struggling students and summarizes the findings from the University of Vermont (UVM) report on special education funding. These two reports emphasize the importance of high quality instruction for all students who need additional support, while the UVM report outlines the shortcomings of the current reimbursement funding model.

The bill also finds that students requiring additional support would be better served using the best practices outlined in the DMG report, and that the current reimbursement model impedes implementation of these best practices.

Early Implementation Program

Section 3 of the bill creates an early implementation program, which would allow SU/SDs that have worked with DMG on their special education practices to opt-in as early implementers of the census-based model in Fiscal Year 2020. In order to participate as an early implementer, a SU/SD must notify the Agency of Education between October 1 and October 15, 2018 of its election to participate in the program. The bill allows the Secretary of Education to apply, waive or modify State Board of Education rules for participating SU/SDs in a manner that is consistent with this section.

Census-Based Funding Model

Section 4 of the bill requires all SU/SDs to shift to a census-based educational support grant in Fiscal Year 2021. In Fiscal Year 2021 the amount of the grant would be based on the average amount a SU/SD received from the State in Fiscal Years 2017, 2018 and 2019 for their standard mainstream block grants, special education expenditures reimbursement and exceptional circumstances amount, adjusted for inflation.

The bill charges the State Board with establishing, through the rulemaking process, a base amount for the educational support grant beginning in 2025, plus an educational support grant adjustment. The adjustment is intended to account for a SU/SD's relatively higher costs in supporting students who require additional support due to the number of students or the nature of the services required.

For Fiscal Years 2022, 2023 and 2024, the educational support grant will be determined by multiplying a SU/SD's long-term membership by a base amount established under State Board rules. Between Fiscal Years 2021 and 2025, SU/SDs will transition from an SU/SD specific base amount to a statewide base amount.

Extraordinary Special Education Expenditures

Section 4 also makes changes to the funding of extraordinary special education expenditures. Current law sets the threshold amount at \$50,000 with 90% of costs in excess of \$50,000 covered by the State. The bill increases the threshold amount for extraordinary expenditures to \$60,000 with 95% of costs in excess of \$60,000 covered by the State. The State Board would establish by rule the process for SU/SDs to submit claims for extraordinary reimbursement under this section.

Fiscal Review

Section 4 requires the Secretary of the Agency of Education to report annually to the State Board regarding (1) the amount of educational support grants made to SU/SDs, (2) the total amount of extraordinary special education reimbursement made to SU/SDs, (3) results for special education students, (4) the availability of special

education staff, (5) the consistency of special education implementation statewide, (6) the status of educational support systems in SU/SDs and (7) a statewide summary of special education student count. This section takes effect July 1, 2020.

Notice of Tuition Rates; Special Education Charges

Section 5 makes technical changes to clarify that excess special education costs incurred by a SU/SD in providing special education services to a student beyond those covered by tuition may be charged to the student's SU/SD for the district of residence.

Residential Placement

Section 6 makes technical changes to clarify that a SU/SD shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

Independent School Tuition Rates

Section 7 makes technical changes to clarify maximum rates paid by the Agency of Education and SU/SDs.

Payment; Allocation

Section 8 clarifies that funding for special education services shall be paid to SU/SDs.

Census-Based Funding Advisory Group

Section 8 creates an 18 member Advisory Group to consider and make recommendations on the implementation of a census-based model of funding for students who require additional support. On or before January 15, 2019, the Advisory Group would submit a written report to the House and Senate Committees on Education and the State Board with recommendations on the development of proposed rules to implement the transition to a census-based model. Additionally, on or before January 15, 2020, the Advisory Group would submit a supplemental written report to the House and Senate Committees on Education and the State Board of Education with a status of implementation and any recommendations for amendments to the law. The Advisory Group would meet monthly beginning in September 2018 for eighteen months.

Weighting Study

Section 11 requires a weighting study by the Agency of Education, which would determine weighted long-term membership of school districts. While the legislature required a weighting study last year, the Agency of Education did not complete the work, citing lack of capacity to perform the analysis. This bill expands the scope of the study required last year to include a look at how the State Board of Education should account for increasing the amount of educational support grants to supervisory unions with relatively high costs due to the number of students who require additional support

or the nature of services required. The bill includes a \$300,000 appropriation to fund the analysis.

Consulting Services on the Delivery of Special Education Services

Section 12 allows for consulting services to assist SU/SDs in their transition to the new special education practices and funding. Additionally, section 13 adds three positions at the Agency of Education and appropriates \$325,000 to fund the positions— one position for a special education attorney and two positions for special education programming.

Effective Dates

Most sections take effect on passage. Sections 14 (extraordinary services reimbursement) and 15 (amendment to 16 VSA Section 4001) take effect on July 1, 2019. Sections 4(fiscal review) and 17(transition) take effect on July 1, 2020.

Senate Passes Miscellaneous Ed Bill, Including Changes to Pre-K Law

The full Senate passed the miscellaneous education bill, [S.257](#) as [amended](#). The bill makes the following changes to current law:

Tuition Paid to Out of State Independent Schools

Sections 1 and 2 of the bill address payment of tuition to approved independent schools, by prohibiting tuition payments to out-of-state private schools. The bill includes an exception for an independent school in another state approved under the laws of that state that is either (1) contiguous to Vermont or (2) in a state that pays publicly funded tuition for its resident students to attend a public or approved independent school in Vermont. Another exception applies to circumstances where a student on an individualized education plan has been referred or placed by the student's individualized education plan team or local education agency in a private school outside of Vermont.

Section 3 of the bill creates a transition period so that tuition can be paid for no more than four years for students attending an approved independent school during the 2017-2018 school year that does not meet one of the exemptions.

Changes to the Dual Enrollment Program

Section 4 of the bill changes the Dual Enrollment Program by allowing Vermont residents to participate in the program if they are enrolled in an approved independent school in Vermont. This removes the requirement that only publicly-funded tuition students could participate in the Dual Enrollment program, and allows for students attending parochial schools to participate. This change is in response to a recent United States Supreme Court decision. The Senate Education Committee heard testimony from

a Constitutional scholar who warned that the current law could be subject to challenge if this change is not implemented.

Child Abuse and Neglect Hotline

Section 5 of the bill requires each public school and each independent school to post, in a place clearly visible to students and on its website, the toll-free telephone number operated by the Department for Children and Families to receive reports of child abuse and neglect, and directions for accessing the office of the Department for Children and Families. It further requires that the postings shall be in English, Spanish and French.

Portability of VSAC Grants

Section 6 of the bill would require the Vermont Student Assistance Corporation (VSAC) to award grants and scholarships solely for use at Vermont postsecondary schools or at educational institutions in states that have executed a reciprocity agreement with Vermont. Vermont is one of only two states that allows total portability of its State grants and scholarships, so that Vermonters may currently use these awards at any accredited U.S. postsecondary institution in any of the United States. Other states, including most New England states, limit portability to states with which they have reciprocity agreements. Some states do not permit any portability of state grant funds.

Support for Creation of Interstate School District with Massachusetts

Section 7 of the bill supports the creation of an interstate school district that would combine the Stamford school district with the Clarksburg, Massachusetts school district in order to increase educational opportunities for students in the Stamford school district given the geographic and other challenges involved in merging the Stamford school district with another Vermont school district. In order for an interstate school district to be formed, additional steps, including an Act of Congress, would be required. This provision is intended to show state support for the creation of the proposed interstate district.

Clarification on Elections/Vacancies of Unified Union School District Boards

Section 8 extends the provision that was approved last year by an additional year. The provision states that the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the district's annual meeting in accordance with the district's articles of agreement.

In addition, if a vacancy occurs on the board of a unified union district board and the vacancy is in a seat that is allocated to a specific town, the clerk is required to immediately notify the selectboard of the town. Within 30 days of receipt of that notice, the unified union school district board, in consultation with the select board, is required

to appoint a person to fill the vacancy until an election is held in accordance with the unified union school district's articles of agreement. This section is repealed on July 1, 2019.

Small School Support

Section 9 states that students enrolled in prekindergarten programs shall not be counted in a school's "enrollment" for the purposes of determining eligibility for small school support grants.

Prekindergarten Education

Sections 10-12 of the bill contain changes to Act 166 pre-K funding and administration, including transferring the administration of the pre-K program from school districts to the Agency of Education. The Agency of Human Services would continue to license and oversee private providers, but the Agency of Education would pay tuition at a statewide rate for 10 hours per week of pre-K services to private providers and to public providers located outside the district in which a child resides. Private providers and public providers that are not the child's district of residence could receive additional payment directly from the parent or guardian for prekindergarten education in excess of the publicly funded hours or for child care services, or both. School districts would be able to count prekindergarten students as part of their ADM if the students reside in the district and attend a program operated by the district.

The bill requires school districts to include identifiable costs for prekindergarten programs and essential early education services in annual budgets and reports to the community. The bill also includes language that would give the Agency of Human Services responsibility to oversee safety requirements at public schools, with an exception created if the Secretary of Education determines a compelling reason to do otherwise.

School Radon Mitigation Study Committee

Section 13 creates a seven-member School Radon Mitigation Study Committee (membership to include Secretary of Education or designee, one representative from VSBA and one representative from VSA) to explore funding opportunities for the mitigation of elevated radon concentrations in schools and contingency plans for the loss of related federal funding. The first meeting of the Committee will occur on or before October 1, 2018. The Committee is required to submit a written report containing options for funding the mitigation of elevated radon concentrations in schools to the House and Senate Committees on Education, on or before December 15, 2018.

Effective Dates

Sections 9-12 take effect on July 1, 2019. The remaining sections take effect July 1, 2018.

Legislature Continues Work on Gun Reform Legislation

The General Assembly continues their work on gun reform legislation in the wake of the school shootings in the United States. The legislature has considered background checks, raising the age to purchase guns, banning assault weapons, increasing security measures at schools, and requiring gun confiscation after issuance of emergency protective orders.

The House and Senate Education Committees hosted a student forum on school safety, during which the students expressed their concerns and urged lawmakers to take action. Early this week, the House approved a program that would give schools up to \$25,000 each in grants for security upgrades such as intercom systems, window coverings, doors and perimeter security measures that are identified by security assessments. School districts would be expected to match the grants with funds from their own budgets. The school grant program includes up to \$4 million, an adjustment to the state capital construction budget under [H.923](#). The U.S. Department of Homeland Security is expected to provide about \$1 million in matching funds.

The Senate unanimously passed [S.221](#), and sent it to the House Judiciary Committee. The bill would allow a State's Attorney or the Attorney General to request that a court issue an extreme risk protection order that would prohibit a person from possessing, purchasing, receiving, or having a dangerous weapon. Extreme risk of harm consists of inflicted or attempted bodily injury, threats or actions that puts others or themselves in fear of physical harm, or actions that present danger to a person in their care. The House Judiciary Committee heard [testimony](#) from a diverse group of stakeholders on S.221.

The House passed [H.422](#), which would remove firearms from people arrested or cited for domestic assault. The bill is now in the Senate Judiciary Committee. Another bill, [S.55](#), passed the Senate earlier in March. The House approved a final reading of S.55 on March 27, making some changes to the legislation. The current bill widens background checks to the private sales of firearms, raises the age to purchase a gun to 21, bans bump stocks and sets a limit on magazine size. S.55 is now headed back to the Senate.

Senate Requires Independent Schools to Serve Special Education Students

The full Senate passed [S.229](#), an act that addresses the obligation of Independent Schools to serve special needs students. The bill is based on the recommendations of the Approved Independent Schools Study Committee and provides direction to the State Board of Education as it amends its rules for the approval of independent schools.

Independent Schools Approval and Special Education Services

S.229 requires approval of an independent school only on the condition that the school agrees to enroll special education students who are placed in or referred to it as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency. This requirement does not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973.

Under the bill, an approved independent school is not required to demonstrate that it has the resources to serve every category of special education in order to be approved to receive public funding for general tuition. The bill requires the Secretary of Education to establish minimum standards of services for students receiving special education services in independent schools. An approved independent school may bill the responsible LEA for excess special education costs incurred by the school in providing special education services beyond those covered by general tuition, subject to rates approved by the Secretary. The Agency of Education is required to publish specific elements that must be included as part of an independent school's invoice for excess special education costs.

The bill requires the Secretary to apply the principle of treating an approved independent school and a public school with parity in the amount of federal, State and local contributions to cover the costs of providing special education services.

An independent school must demonstrate the following in order to be approved as eligible to receive State funding: (1) demonstrate an understanding of special education requirements, including provision of a free and appropriate education, provision of education in the least restrictive environment, characteristics and educational needs associated with any of the categories of disability or suspected disability, and procedural safeguards and parental rights, including discipline procedures (2) commit to implementing the IEP of an enrolled student with special education needs, (3) employ or contract with staff who have the required licensure to provide special education services, and (4) agree to communicate with the LEA concerning the IEP, services provided under the IEP, recommendations for a change in services, the student's

progress, maintenance of the student's enrollment in the independent school and the identification of students with suspected disabilities.

Under the bill, an approved independent school that enrolls a student requiring special education services is required to enter into a written agreement with the LEA committing to the above requirements.

Local Education Agency Requirements - Interim Staffing & Resources

S.229 requires approved independent schools to accept special education students when LEAs deem the approved independent school as the least restrictive environment. The bill requires LEAs to provide additional staff and other resources to an approved independent school until the school is able to directly provide the services. The approved independent school is required to have all staff resources and appropriate State Board certification within nine academic months of the student's initial enrollment.

Financial Capacity of Independent Schools

The bill also states that the State Board's rules for independent school approval must, at a minimum, require that the school has resources needed to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that comply with State and federal laws and regulations. Upon certain triggers, the State Board could establish a review team to assess the school's financial capacity and submit a report to the Board.

The bill would also establish the procedure for the Education Secretary to set the rates for students in residential placement.

Open Meeting & Public Records Act Changes Approved by the House

The House also passed [H.910](#), which is an act relating to the open meeting law and public records statutes. The bill aims to clarify existing law, and limits the definition of a meeting in an effort to ensure that when a quorum of a public body gathers for a purpose other than that of their public body, this gathering is not considered a meeting under the law.

The significant changes to the Open Meeting Law are:

(1) Defining business of a public body as "the public body's governmental functions, including any matter over which the public body has supervision, control, jurisdiction, or advisory power."

(2) Clarifying that meetings shall not mean “occasions when a quorum of a public body attend social gatherings, conventions, conferences, training programs, press conferences, media events, or otherwise gathers as long as the public body does not discuss specific business of the public body that, at the time of the exchange, the participating members expect to be business of the public body at a later time.”

(3) Clarifying that meetings shall not mean “a gathering of a quorum of a public body at a duly warned meeting of another public body as long as the attending public body does not take action on its business.”

(4) Prohibiting serial communications, stating “A quorum of the members of a public body shall not use a series of less-than-a-quorum communications of any kind, directly or through intermediaries, intended by any of the members to reach agreement or take action on the business of the public body.”

The significant changes to the Public Records Act include:

(1) Amending the definition of the term “promptly” when used to describe how soon a custodian of a public record must respond to a record request. “Promptly” means “immediately, with little or no delay, and unless otherwise provided in this section, not more than three business days from receipt of a request.”

(2) Extending the “promptly” respond language to responding when records are in active use or in storage, and when a custodian considers the records to be exempt from inspection and copying.

Through the changes to the legislation, the Committee aims to make the law easier to understand.

H.910 was introduced to the Senate on March 16, 2018, and now sits in the Senate Government Operations Committee.

Senate Approves Bill Mitigating Childhood Trauma and Toxic Stress

[S.261](#), passed the Senate on March 14, 2018 and was then referred to the House Committee on Human Services. The effective date of the bill is July 1, 2018.

This bill intends to address trauma and toxic stress in childhood, build resilience into children and families, and improve support systems for people who experienced trauma and/or toxic stress. Generally, the bill would create a new Director position at the

Agency of Human Services to manage and oversee the process as well as establish a handful of collaborations to achieve this goal.

Section 1 outlines the bill's purpose, which is to streamline redundancies and close gaps between upstream services to minimize the need for downstream services.

Sections 2-4 propose amendments to Title 33. Section 2 adds the following definitions to 33 V.S.A. § 3402: trauma-informed and toxic stress. Section 3 adds a connection between pediatric primary care and DCF in 33 V.S.A. § 3403. This addition would require each county in the state to have a partnership between a pediatric primary care provider and a support service by January 1, 2023. Section 4 would allow DCF and the Department of Corrections to make joint referrals to child with incarcerated parents.

Director of Prevention and Health Improvement of AHS: Section 5 would establish a Director of Prevention and Health Improvement ("Director") within the Agency of Human Services ("AHS"). This position would be funded by repurposing existing expenditures. The Director would be tasked with directing AHS' response on behalf of people who experienced childhood trauma or toxic stress. The Director would have a range of responsibilities, including posting training information on toxic stress, childhood trauma and resilience building on AHS' website for childcare providers, afterschool programs, educators and health care providers. The Director would report her progress to the House Committees on Health Care and Human Services and the Senate Committee on Health and Welfare ("the Committees") in January of each year from 2019 through 2024, including any suggestions for legislative action. By January 15, 2024 the Director will present a Report on her findings to the Committees.

Judiciary & Executive Branch Collaboration: Section 6 outlines a plan for collaboration between AHS and Vermont's judiciary. Vermont's Chief Justice of the Supreme Court and the Director would be tasked with a reporting to the Committees by January 15, 2020 with an action plan to better coordinating of the judicial and executive branch in response to childhood trauma and toxic stress.

Plan: Section 7 would task the Director with coming up with a plan for employees of child care centers, home-based programs, preschool programs and afterschool programs to appropriately respond to childhood trauma and toxic stress. The Director would collaborate with stakeholders on this plan and report on the plan to the Committees by January 15, 2019.

Evaluation System: Sections 8 and 9 would create an evaluation system for child care and community-based family support systems, specifically the funding sources and the best entity to report on these sources. The Commissioner of Health would determine a framework to evaluate the effectiveness of AHS' work addressing childhood trauma and toxic stress. The Commissioner will submit his report to the Director and the Committees by January 1, 2019.

Bright Futures Guidelines: Sections 10 through 12 lay out the intent for Bright Futures guidelines, and that Bright Futures should be used as a resource for individuals and

organizations that provide care and support services to children and families. Section 11 would establish a blueprint for health, including that primary care providers would be on the front lines for medical care and social services. The section expressly tasks providers with assessing trauma and toxic stress to ensure that a patient's whole needs are addressed and community and individual resilience are maximized. Section 12 would provide for oversight of accountable care organizations, specifically it would ensure that accountable care organizations would provide connections to existing community services that would establish quality-outcome measurements.

School Wellness: Section 13 would require the Director to coordinate with the Vermont State School Nurse Consultant and AOE to support LEAs, school administrators, and school nurses to make sure that students health appraisal forms are completed annually and identify students' health related barriers to learning.

Opioid Epidemic: Section 14 addresses the opioid crisis, and would amend 33 V.S.A. § 2004a, which addresses evidence-based education and advertising fund. The proposed changes to existing law would add to its prevention charge and require opioid-related programming for the benefit of families and children.

Education Components: Sections 15 through 17 propose changes to title 16, Vermont's education statutes. 16 V.S.A. § 136 would be amended to allow the AOE Secretary to survey students' experience with adverse childhood experiences through a website. The tiered systems of supports would also be amended; this section is found in 16 V.S.A. § 2902. The changes would allow the tiered system of support to include trauma-sensitive programming and to provide professional development for all staff to implement the system. Section 17 would require superintendents to report to the Secretary of the AOE on the status of the multi-tiered system of supports in each school, including the school's continuous improvement plan and professional development.

Resource Reallocations: Section 18 addresses reallocating existing resources to minimize duplicative efforts pertaining to childhood trauma. The Secretary of AHS would be tasked with reviewing these initiatives to find overlapping services and working groups in order to find resources. The Secretary would produce a report by October 1, 2018 to the Committees.

List of Education Bills Introduced this Session

Please follow [this link](#) to a comprehensive list of education-related bills currently in the General Assembly.