

Vermont School Boards Association
Vermont Principals' Association
Vermont Superintendents Association

Education Legislative Report

2011 Session Summary



May 18, 2011

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Introduction

The 2011 session of the General Assembly was bookended by the election of a new Governor, former state senator Peter Shumlin, and an orderly Friday afternoon adjournment. In between, hot topics included balancing the budget – a task that began with the state facing a large deficit – and steps towards healthcare reform, a high priority for the Governor.

The education committees' policy debates centered on the usual mix of process (e.g., hiring procedures, school athlete head injuries) and priorities (e.g., prekindergarten, mentoring). Education finance policy was addressed at the beginning of the session when Gov. Shumlin promised to keep school district *Challenges for Change* targets voluntary, but also announced that General Fund support for the Education Fund would be reduced. Notably, there was no major legislation approved that would affect last year's voluntary school merger bill, Act 153. A number of education bills were given serious consideration but not finalized or approved this year, including a proposed change to the process leading to appointment of Commissioners of Education.

Notable bills that were not approved are detailed in the final section of this report; we begin with legislation that will take effect.

Hiring Procedures (H.264 & S.2)

Liability Protection for Sharing “Job Performance” Information

<http://www.leg.state.vt.us/docs/2012/Acts/ACT056.pdf>

H.264, a bill that primarily concerns motor vehicle law, became the mechanism to advance legislation pertaining to hiring procedures for employers whose employees work with minors or vulnerable adult populations. H.264 *repeals* the requirement that these employers, including school districts, contact each of a prospective employee's current or former employers over the prior ten years and seek written responses regarding the person's work history (the so-called “ten-year look-back”); that requirement had been scheduled to become effective July 1 of this year. H.264 *replaced* that requirement with a new provision of law extending immunity from liability to current or former employers who share certain work-history information with prospective employers.

The provision provides immunity from liability to current or former employers who lawfully share “job performance” information with prospective employers *only if* the prospective employer's employees work with minors or vulnerable adults (naturally, all school districts meet this standard). This provision is effective July 1, 2011 and will be codified as 21 V.S.A. § 308. The immunity is void if the current or former employer knowingly discloses false or misleading information, or if the information is disclosed in violation of other laws.

Job performance is defined in the law as:

- Suitability of the employee for employment;
- The employee's work-related duties, skills, abilities, attitude, effort, knowledge, and habits as they may relate to suitability for future employment;
- In the case of a former employee, the reason for the employee's separation; and
- Any illegal or wrongful act committed by the employee.

If the job performance information is shared in writing, the current or former employer must also provide a copy to the employee.

Our Associations will be providing school officials with more information on this new provision of law and its implications for school district hiring practices.

The Legislature has directed its legal office to produce a report on the immunity provision by January 2013. The report will include an evaluation of whether the immunity provision increases the amount of job performance information shared between employers.

The immunity provision is set to expire on July 1, 2013; however, it is likely that Legislature will act in some way prior to the expiration date, either modifying the law or extending the period for which it is effective.

Requirement to Check Abuse Registries; Sex Offender Registry

<http://www.leg.state.vt.us/docs/2012/Acts/ACT031.pdf>

S.2 makes two simple, but critical, changes to the procedures for hiring school employees, effective immediately.

First, S.2 requires that a superintendent or an independent school headmaster obtain information from the Child Protection Registry and the Vulnerable Adult Abuse, Neglect, and Exploitation Registry for prospective employees, contractors who may have unsupervised contact with schoolchildren, or any other person for whom a criminal record check is already required.

The requirement to perform registry checks on prospective employees had been previously approved by the Legislature in 2009 and was scheduled to take effect December 31, 2010 but, due to missteps in the legislative drafting process, it did not become effective until the enactment of S.2 this year. This issue was the subject of a memorandum from Commissioner of Education Armando Vilaseca issued July 1, 2010. In that memo, the Commissioner urged districts to begin performing the checks and provided additional detail about the process that led to the delayed implementation of the law. Here is a link to the memo for reference:

http://education.vermont.gov/new/pdfdoc/dept/commissioner_memos/educ_memo_070110_abuse_registry_checks.pdf

Note that a person is not categorically barred from school employment if there is information about his or her background contained in either of these registries.

School districts and supervisory unions can conduct both registry searches simultaneously online. Visit the following web link to register your district and perform the required checks:

<http://www.ahsnet.ahs.state.vt.us/abc/SubscriberHome.cfm>

Second, S.2 *does* categorically ban any person from employment with a Vermont school district or independent school who is convicted of a crime that requires registration on Vermont's sex offender registry. The ban includes contractors who may have unsupervised contact with school children and student teachers. Any convictions for sexual offenses will be listed in a prospective employee's criminal record check that schools are already required to perform.

Principal and Teacher Mentoring (H.430)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT020.pdf>

The Legislature has approved H.430, a bill that will require school districts to provide mentoring supports for new principals and technical center directors. H.430 also commissions a study on mentoring services for new teachers.

H.430 requires superintendents to ensure that a newly hired principal or technical center director receive mentoring supports for at least two years if that person has not previously worked in that capacity in his or her career. (The bill neither prohibits nor requires mentoring for experienced school administrators, including experienced administrators taking a new job.) Appropriate mentoring supports must be consistent with research based approaches, best practices, or other successful models and will be identified jointly by the VPA and the VSA. The district will be required to allocate sufficient funds for mentoring from professional development funds, grant funds, or other sources. The bill is applicable beginning with employment contracts for the 2012-13 academic year.

The second part of H.430 will require a new committee to study how Vermont "inducts and mentors" new teachers and to recommend legislative changes that would increase teacher skills and improve retention within the profession. The committee will be comprised of members of the Vermont Standards Board for Professional Educators, the Vermont-NEA, our Associations, and persons working in educator preparation programs. The Commissioner of Education will convene the committee's first meeting no later than August 1, 2011 and the committee must submit a report to the Legislature by January 1, 2012. If you are interested in serving on the committee, contact your association.

Prekindergarten ADM Cap Repealed (S.53)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT038.pdf>

S.53, a bill that repeals the current-law cap on the number of prekindergarten children that school districts can count in their average daily membership (ADM), has been approved. This change does not require districts to provide prekindergarten services. It does allow a district that operates a program or contracts for prekindergarten services to include all eligible, enrolled children in its ADM.

Miscellaneous Education Bill Approved (S.100)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT058.pdf>

S.100, a miscellaneous education bill, has been approved by the Legislature.

A number of the bill's provisions make technical changes to Title 16 and others pertain solely to higher education. What follows is a description of the sections of the bill that substantively pertain to PK-12 education.

- Section 22 allows supervisory unions to receive state and federal foodservice grants on behalf of their member school districts.
- Section 23 adds a section to Title 16 concerning dual enrollment (16 V.S.A. § 913). The section states that secondary schools will award credit to students for successful completion of postsecondary courses when the student has received prior approval from his or her school. The secondary school determines the amount of credit awarded, including to what extent the course may count towards the student's graduation requirements. Section 24 of S.100 declares that it is a policy of the State to increase access to expanded learning opportunities for students including dual enrollment courses.
- Section 32 allows a school district electorate, in a special warned article, to authorize a five-year window for its school board to incur debt for energy efficiency projects when the annual cost of the project is less than the energy savings. The anticipated cost savings would have to be certified by Efficiency Vermont or an independent licensed engineer or architect. The total debt incurred in any three-year period must be less than \$350,000 per school building. The term length for the bonded indebtedness cannot exceed ten years.
- Section 34 extends by one year the final date for full implementation of sections 9-12 of Act 153 of 2010, from July 1, 2012 to July 1, 2013. Sections 9-12 concern the new duties of supervisory union boards and superintendents pertaining to provision of services including special education, transportation, professional development, and hiring procedures among other related matters. Nothing in the law prohibits districts from completing this transition prior to July 1, 2013.

Language in section 18 retains the collective bargaining rights of transportation workers when the authority for provision of transportation transitions from school districts to supervisory unions pursuant to Act 153 of 2010.

Editor's Note: Section 18 and Section 34 of S.100 also were approved by the Legislature in a separate bill, [H.428](#). The language is exactly the same in both bills.

- Sections 35-37 concern off-campus harassment and bullying, including “cyberbullying.” Section 35 expands the definition of harassment in Title 16 to include harassment by electronic means. Section 36 expands the definition of bullying in Title 16 to include bullying by electronic means, and to include bullying that occurs off school grounds if the behavior “can be shown to pose a clear and substantial interference with another student’s right to access educational programs.” Section 37 expands the definition of misconduct for which a school *may* suspend or expel a student to include misconduct off school grounds if the misconduct “can be shown to pose a clear and substantial interference with another student’s right to access educational programs.”
- Section 38 directs the Department of Education, in consultation with other parties, to “integrate the value added food processing sectors, including meat cutting and processing” into programs of study at technical education centers.

School Athlete Head Injuries

S.100 includes a provision addressing procedures for managing concussions and other head injuries sustained by students participating in public school and approved independent school athletic teams. The language addresses information for parents and youth athletes, training for coaches, and procedures for managing student athletes exhibiting symptoms of concussion. This provision is effective beginning with the fall 2011 sports season.

S.100 requires the Commissioner of Education, with assistance from the VPA, to develop guidelines and materials to educate coaches, youth athletes and parents regarding concussions and head injuries. School principals or headmasters are required to ensure that, 1) the guidelines are provided to athletes and parents, 2) that athletes and parents sign a form acknowledging receipt of the information prior to the athlete’s participation in team activities, and 3) that each team coach receive training on how to recognize the symptoms of concussion at least once every two years.

If an athlete has been removed from team activities because he or she is exhibiting symptoms of concussions, the team coach is prohibited from allowing the athlete to return to team activities until the athlete has received written permission from a licensed healthcare provider. The licensed healthcare provider must be trained in the evaluation and management of concussions and other head injuries. The bill does not specifically state that a coach must remove a player from team activities if he or she is exhibiting signs or symptoms of having sustained a concussion, however, the required training for coaches will say just that.

This provision of S.100 is applicable to K-12 school-sponsored athletic teams. Recreation league teams and other groups that may use school property are not subject to the requirements. The VPA will work with the Department of Education to ensure that all public and approved independent schools receive model guidelines, forms, and training information prior to the upcoming fall sports season.

Summer Studies

S.100 includes three studies for the Department of Education (DOE) to investigate with reports due January 15, 2012, in time for next year's legislative session.

- The DOE, in consultation with VSA and other interested parties, is directed to study options for how delivery of driver's education could be restructured.
- The DOE is directed to report on current and planned use of technology in schools, including a report on schools' access to broadband internet and students' access to flexible learning environments, among other issues.
- The DOE and the Department for Children and Families, in consultation with other interested parties, is directed to study the statutes and rules regarding prekindergarten education with the intent of making recommendations to simplify the process for providing prekindergarten.

Editor's Note: There are six other studies of interest to school districts commissioned by the Legislature this year. Each of the six are described elsewhere in this report, but for reference, here is the bill number and a brief description of the study subject: S.96, summer unemployment compensation for school-year-only employees; S.96, 12-month payment of wages for school employees; H.430, teacher mentoring; H.73, public records issues; H.436, education finance; H.446, moratorium on state aid for school construction.

Study of Unemployment Benefits, 12-Month Wage Payment (S.96)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT050.pdf>

Earlier in the session, the Senate Committee on Economic Development, Housing, and General Affairs held hearings on the feasibility of granting unemployment benefits to school-year employees during summer months. Our Associations opposed that proposal because the multimillion-dollar annual unemployment insurance cost to school districts was at odds with the call for spending restraint coming from state policymakers and local communities. That provision was not included in any committee-approved bill this year.

Two bills under consideration in the Legislature this year (H.238 and S.95) would have enabled school district employees, including school-year-only employees, to elect to have their wages paid over a 12-month period. Our Associations opposed these provisions because it would add administrative burden and complexity to the payroll process at a time that school districts are

being asked to reduce administrative costs. Neither bill was approved this year. H.238 resides in the House Committee on General, Housing and Military Affairs. S.95 was approved by the Senate and currently resides in the House Committee on Rules because the bill did not meet “crossover.”¹

S.96, a bill concerning workers compensation that was approved by the Legislature, became a vehicle for a summer study committee to examine both of the issues described in the preceding paragraphs. The Commissioner of Labor, in consultation with the VSBA and other interested parties, is directed to study the “issue” of enabling school-year employees to receive unemployment benefits during summer months. The study is to consider the costs of this benefit, which employees should be eligible, and other relevant issues. The Commissioner of Labor is also directed to study the “issue” of allowing school year employees to elect to have their wages paid over the course of a calendar year. The studies are due January 15, 2012. Our Associations will monitor developments related to these studies and report to our members as appropriate.

An Overview of Federal and State Health Care Reforms

Editor’s Note: The information in this article is provided courtesy of the Vermont School Boards Insurance Trust.

Sweeping health care reforms passed at the federal and state level in 2010 and 2011, and there will be more to come. The federal legislation, The Patient Protection and Affordable Care Act, was enacted in March, and H.202, Vermont’s health care reform bill, received approval during this year’s legislative session.

Federal Reform

This legislation requires:

1. Health insurers to offer dependent coverage to age 26;
2. Insurance companies to eliminate lifetime and annual benefit restrictions;
3. Employers to include health insurance costs on W-2s;
4. States to create or join an “insurance exchange” for individuals and small employers that becomes operational in January, 2014;
5. Employers to notify employees of these health care options by March of 2013.

The law also allows certain employers and groups to elect the “grandfather option,” which allows them to keep their current health care plans relatively unchanged. The Vermont Education Health

¹ Crossover is a deadline by which introduced bills must be approved by one or more committees if the bill is to advance in the legislative process, unless the chamber receiving the bill agrees to suspend its rules.

Initiative (VEHI) elected the grandfather option. The rules covering this are detailed. Look for an upcoming memorandum from VEHI explaining them and related matters.

Vermont Reform (H.202)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT048.pdf>

H.202 authorizes the creation of the exchange mandated by the federal law. The establishment and operation of the exchange is assigned to the Office of Vermont Health Access. As mentioned earlier, the exchange will provide health insurance coverage to individuals and small employers first, in 2014. Large employers are permitted to enroll in 2017. Definitions of “small” and “large” employers will be addressed in forthcoming state legislation.

Further, H.202 lays the foundation for a “Universal and Unified Health Care System” (what some call “single payer”) in the coming years. The latter is predicated on the state receiving federal waivers and identifying other needed revenue sources. Additionally, H.202:

1. Requires the creation of a five-member health care board (the Green Mountain Care Board) to oversee the state’s health care system;
2. Includes payment and delivery reforms and cost containment strategies;
3. Mandates tighter regulation of hospital budgets and the creation of a system that will measure performance.

What the Reforms Mean for School Districts

1. School districts must extend dependency coverage to age 26. (Districts, with VEHI’s assistance, began complying with this requirement last summer.)
2. There will be new compliance rules involving W-2 reporting. VEHI will help districts meet this obligation by 2012.
3. Employers must notify employees on the availability of the health care exchange by March 2013. VEHI will assist you in developing the notice.
4. Rules covering “grandfathered” plans partially limit an affected employer’s capacity to reduce its contribution to the cost of health insurance for its employees. It also allows them to retain most of what their current plans offer. These rules and their implications will be explained in an upcoming VEHI memorandum.

School Construction Aid (H.446)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT040.pdf>

The state chose to develop a bond to provide capital construction project aid over a two-year period for FY 2012-13, altering a long-standing practice of bonding each year. The state could choose to amend its appropriation of construction aid in the 2012 session; however, there is language in the bill stating that it is the “intent” of the General Assembly not to amend the school construction appropriation.

H.446, the capital bill, would appropriate \$7.425M for school construction aid in each year of the biennium for a total of \$14.85M. Department of Education figures indicate that the total outstanding aid that the state owes to districts is \$28.1M so the proposed two-year appropriation would pay 51 percent of the aid owed while setting aside \$600,000 for emergency aid. On an annualized basis, the state aid appropriated in H.446 is more than the appropriation in FY 2011 (\$6.4M) and less in FY 2010 (\$10.3M).

To see the Department of Education’s estimate of aid each eligible district will receive in FY 2012, visit this link: http://education.vermont.gov/new/excel/pgm_construction/EDU-Schhol_Construction_Estimated_Payouts_for_FY12.xls

H.446 also directs the Department of Education to report to the Legislature on the cost of lifting the ongoing moratorium on state aid for school construction (all projects receiving aid this year were approved prior to the moratorium’s enactment in 2007 or were exempt). The Department is directed to report on estimated demand for new projects, how other states fund school construction, and alternative funding formulas. The report is also to include a recommendation for a date on which the state should repeal the moratorium.

Finally, H.446 allows the provision of law enabling school consolidation construction projects to receive 50 percent state aid to continue for an additional two years. All school consolidation projects approved by the Department by June 30, 2013 will be eligible for 50 percent reimbursement, notwithstanding the moratorium.

Appropriations Bill (H.441)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT063.pdf>

H.441 is this year’s edition of the state’s annual appropriations bill, which allocates most state government funds for FY 2012. Among many other items, H.441 includes regular state funding for school districts, categorical aid for districts, and funding for the teachers’ retirement system. Three line items in the state budget of are particular note to districts this year and they are as follows.

The General Fund transfer to the Education Fund will be \$276.24M in FY 2012, and this amount will be the new base transfer amount that will increase by an inflationary factor in future years. After nonresidential and residential property taxes, the General Fund transfer is the third-largest source

of funding for PK-12 public education in Vermont. This \$276M figure in FY 2012 is roughly what was expected based on Gov. Shumlin's public statements in late December 2010 that we reported on in our first [Education Legislative Report this session](#). In brief, Gov. Shumlin promised that the \$23.2M in *Challenges for Change* FY 2012 budget reduction targets for school districts would remain voluntary, but that the General Fund transfer would be permanently reduced by that amount (although it will increase by an inflationary figure in future years).

The Education Fund will now be responsible for paying for the educational costs of operating the Community High School of Vermont (the corrections' system school). This has a cost of \$4.3M in FY 2012. In recent years, this cost was shifted onto the Education Fund using language that created one-year arrangements. Language in H.441 portends a permanent shift.

The Student Assistance Program (SAP), a state supported program that provides funding for drug and alcohol counselors in schools, will be funded at a 50 percent level in FY 2012 as compared to its FY 2011 funding. In FY 2013, the Department of Health will award funds for the program on a competitive basis. The criteria for awarding of grants in FY 2013 will be based on individual SAP programs meeting their stated goals, funding matches from the local district, and need as identified in the Department of Health's Youth Risk Behavior Survey.

Miscellaneous Tax Bill (H.436)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT045.pdf>

The Legislature approved H.436, a miscellaneous bill concerning revenues and taxes in Vermont. The bill includes many provisions unrelated to school district operation, and handful of provisions that pertain to education funding. The latter are detailed as follows.

- Statewide education property tax rates will be \$1.36 for nonresidential property and \$0.87 for homestead property in FY 2012. The base education amount will remain \$8,544 in FY 2012.
- A report due on July 15, 2011 from the Department of Taxes concerning the feasibility of the state assuming the duties of collecting education property taxes has been amended. It now must include a provision studying the feasibility of applying the Common Level of Appraisal (CLA) "separately and independently" from the tax rate. In other words, the Legislature is interested in examining how the CLA could be applied to education property tax rates without having the perceived effect of modifying those rates; the study is *not* intended to propose modifying or eliminating the CLA itself.
- A previously approved plan to convert the Department of Taxes to a department of revenue has been repealed.
- A current law requirement that the State Board of Education report to the Legislature at least every five years on the outcome of the Board's evaluation of the "equalizing effects of Vermont's education finance system and school quality standards" has been repealed.

Excess Spending Penalty Exemptions

The excess spending penalty is a tax surcharge applied to taxpayers with homestead property located in school districts that have education spending per pupil in excess of 125 percent of the prior year's statewide average. The law requires the Department of Education to exclude several categories of school spending when it calculates a district's spending per pupil for purposes of applying the penalty. H.436 makes both technical and substantive changes to these spending exemptions.

The technical change is that the exemptions have been consolidated to one place in the law. Previously, the exemptions were found in both Title 16 and Title 32. Now, all exemptions will be listed in 16 V.S.A. § 4001(6)(B).

The substantive changes concern districts that tuition all students and have students move into the district after the Average Daily Membership census period has concluded. Number (vi) and (vii) exempt districts that tuition *all* students from triggering the excess spending penalty as a result of these new tuition costs. Number (vi) had previously been applicable to any district that paid tuition to public schools for one or more grades but not necessarily all grades; it is now applicable to tuition costs to public schools *or* approved independent schools but it is restricted to districts that tuition *all* students. Exemption (vii) is entirely new.

For reference, the excess spending exemptions are:

- i. Approved capital construction spending for which the district will not receive state aid;
- ii. Approved capital construction spending for which the district will receive state aid;
- iii. Spending that is deposited into a reserve fund to pay future approved capital construction costs and the portion of tuition payments to an independent school designated as the public high school for a district that will be used for approved capital construction costs;
- iv. Spending attributable to the cost of planning a merger of a school with an average grade size of 20 or fewer students;
- v. Spending attributable to a district's share of special education costs in excess of \$50,000 for any one student;
- vi. A budget deficit in a district that pays tuition for all students to public or approved independent schools in any year in which the budget deficit is solely attributable to tuition costs for students who moved into the district after the budget for the year creating the deficit was approved;
- vii. For a district that pays tuition for all of its resident students and has students move into the district after the Average Daily Membership census period has ended, the number of students who exceed the district's most recent average daily membership multiplied by the district's average rate of tuition paid in that year.

Study of Education Finance System

H.436 directs the Legislature's fiscal office, with assistance from the Legislature's legal office, the Department of Taxes, and the Department of Education, to develop a proposal for a consultant to evaluate the "outcomes" of Act 60 and Act 68. The proposal must be approved by Legislative leaders. H.436 also eliminates a similar study that the Blue Ribbon Tax Commission had been scheduled to undertake in lieu of this study.

The evaluation of Acts 60 and 68 will include a review of existing studies on the topic, data collected by the Departments of Education and Taxes, and a review of education finance systems in "comparable states with an emphasis on states in New England and states committed to equity." The evaluation will include comparisons between communities within Vermont and between states on the following factors: equity (including opportunity for students, access to resources, and equal treatment of taxpayers); education quality (including a review of Vermont's statutory outcome measures of performance and other state and national measures); comparative costs (including spending growth, particular spending areas, with an understanding that Act 60 and Act 68 envisioned some increase in spending in poorer communities); funding reliance (types of tax and revenues to fund education); demographic issues; economic impacts that the education funding system has had on state and local economies; relationships between per pupil spending and total spending; and, the extent to which spending is correlated to community income wealth.

The consultant will be directed to include public participation in the study and to submit a report to the Governor and Legislature by January 18, 2012. The fiscal office has been authorized to spend \$210,000 on the study, and more if necessary.

Public Records (H.73)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT059.pdf>

The Legislature approved H.73, a bill that amends Vermont's public records act. The bill includes the following provisions affecting school districts:

- If a public agency believes that a requested record is not a public document, it now has three business days to state in writing to the requester why the record is withheld, including the statutory basis for denial and a "brief statement of the reasons and supporting facts for denial." As is current law, the requester can appeal the decision to the head of the public agency.
- H.73 requires public agencies to pay legal fees for any complainant who substantially prevails in taking the agency to court to force the release of public documents unless the agency concedes that the records are public and releases them prior to any court appearance. In that case, the courts "may" award legal fees to the prevailing party.

- Public agencies are prohibited from denying inspection of a public record in its entirety on the basis that some content is exempt from inspection. The agency is directed to redact the exempt content and produce the record with an explanation of the basis for the redaction.
- If the record requester has a disability that requires accommodation to gain equal access to the public record sought, the public agency is directed to work with the requester to accommodate his or her disability regarding inspection of the requested record.
- The Secretary of State is directed to provide advice on the requirements of the public records law to both public agencies and members of the public.
- The Secretary of State is directed to survey local municipalities on the volume of public records requests and other related matters in preparation for an annual report the Secretary will make to the Legislature.

There are two noteworthy provisions that the legislature chose *not* to include in the final version of H.73, each of which was in an earlier draft that we reported on previously.

- Legislators chose not to increase the period of time after which a public agency may charge the requester of a public record for staff time to produce the record. The period remains 30 minutes of free staff time; earlier drafts of the bill had increased that period to two hours.
- Legislators also deleted a provision from an earlier draft that would have required each municipality to appoint a public records officer. The records officer would have been required to participate in annual trainings on records.

H.73 will take effect on July 1, 2011. The bill also creates a study committee of legislators who will be charged with examining the public records law. The committees' duties include evaluating current exemptions to the public records law, determining whether the term "personal documents" needs additional clarification, making recommendations on to what extent municipalities should be able to charge for record copying and inspection, and making a recommendation as to whether municipalities should be required to appoint a public records officer.

Interstate Compact on Educational Opportunity for Children of Military Families (H.38)

<http://www.leg.state.vt.us/docs/2012/Acts/ACT043.pdf>

H.38 is a bill that requires school districts to accommodate children of active duty military personnel according to the provisions of the legislation. H.38 also requires Vermont to participate an interstate compact on educational opportunity for children of military families. The interstate compact includes an interstate commission that Vermont will join.

The interstate compact was developed by the Department of Defense and the Council of State Governments. Each state that enters the compact (by approving the bill in its state legislature)

agrees to accommodate active duty military personnel with regard to the educational services provided to their children when personnel are relocated or deployed. Those accommodations include swiftly enrolling children in school and retrieving their educational records, enrolling children in grade levels and courses comparable to their sending district, providing comparable special services if applicable, and emphasizing flexible pathways to on-time graduation.

H.38 has the following provisions regarding on-time graduation. School district officials are directed to waive specific course requirements for graduation if similar coursework has been satisfactorily completed in another district, including exit exams. If the waiver is not granted but the student has completed all the requirements to graduate from his or her sending school, the receiving school must provide alternative means of acquiring the required coursework so that the student can graduate on time. If a student transfers at the beginning of or during his or her senior year and the student appears ineligible to graduate from the receiving school after alternative pathways have been considered, the receiving school must acquire receipt of a diploma from the sending school, assuming the student is qualified to graduate from that district.

States that enter the compact also agree to abide by administrative rules promulgated by an interstate commission that was created to govern compact-related rules and disputes among participating states. Vermont and all other participating states will have one vote in the commission's rulemaking process. At this time, the commission has not promulgated any rules outside the scope of the legislation described above.

Notable Education-Related Bills Not Approved This Year

2011 was the first year of the legislative biennium so bills that were not approved this year are not necessarily "dead" or otherwise eliminated from the legislative process (although they might be). When the General Assembly reconvenes in January, the following legislation remains in one committee or another and may be taken up for more consideration. Nevertheless, what follows is a list of notable bills that we reported on in prior *Education Legislative Reports* that did not make it all the way through the process.

"Green" Cleaning (S.92)

This bill would require the use of environmentally preferable cleaning products to be used in schools when available. The Senate and House each passed a version of this bill with some discrepancies. A consensus on the bill's language did not emerge this year, although it was under active consideration in the last week of the session. It appears that legislators will continue to work on the bill next year.

Gubernatorial Appointment of a Secretary of Education, Changes to the Composition of the State Board of Education (H.440)

The House Education Committee approved a version of H.440 that, if it was enacted, would have left important questions regarding the role of the Secretary and the State Board of Education to the 2012 session of the General Assembly. The House Committee on Government Operations took testimony on the bill but did not reach a consensus as to whether to approve or reject the bill. The two committees worked collaboratively on several different variations of the bill in the waning weeks of the session; some versions had the approval of one or more of our Associations, others did not. Ultimately, we supported the decision of the Legislature to table the issue until next year. The bill was recommitted to the House Education Committee; the Committee is likely to continue to work on the bill next year.

Mandatory 30-Minute Breaks for Each Six Hours Worked (H.41)

This bill, which was approved by the House after considerable debate on the floor, was sent to the Senate Committee on Economic Development, Housing, and General Affairs where it remains. It is unclear whether the Senate will take up the bill next year.

Open Meetings (S.67)

Discrepancies between the House and Senate versions of this bill that would make amendments to Vermont's open meeting law were not resolved in the final days of the session. It is likely that the General Assembly will continue to work on this bill when the session resumes next year. The bill has been recommitted to the House Committee on Government Operations.

Organizing Childcare Providers (H.97)

This bill was approved by the House but not in time to meet "crossover." Consequently, it was sent to the Senate Committee on Rules. As reported by media outlets, it appears that some Senators have concerns with the bill; whether the Senate will take up the bill next year is difficult to predict.

12-Month Pay for School Year Employees; Summer Unemployment Compensation for School Year Employees (H.238 & S.95)

See the article on page 6 of this *Report* for information on these bills.

Two-vote Repeal (H.299)

This bill was approved by the House but it did not receive substantive hearings in the Senate (it currently resides in the Senate Education Committee). Some Senators expressed concern with the fiscal implications in the bill. H.299 has public support from the Governor, the Vt-NEA, and our Associations. It is too early to say whether the Senate will take up the bill next year.

Small Schools Grants Report (No bill)

The Department of Education fulfilled a directive of the 2010 Legislature by completing a report on Small Schools Grants. Currently, any school district that has fewer students than a given standard (100 students or 20 students per grade) is eligible for a Small Schools Grant (there is also a smaller financial stability grant for districts with rapidly declining enrollment). Section 21 of Act 153 of 2010 directed the Department of Education to determine a methodology for determining which small schools were “geographically isolated” and to suggest a plan for gradual withdrawal of aid for districts not deemed isolated. The Department completed its report and presented it to a joint hearing of the Senate and House Committees on Education in the spring.

Following the presentation of the report, there were no additional hearings on the subject and no legislation approved in 2011 affected the Small Schools Grants or asked for additional study.

For reference, here is a link to the Department’s report:

http://education.vermont.gov/new/pdfdoc/laws/legislative_reports/10/EDU-Report_on_Act_153_of_2009_Section_21.pdf

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