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Testimony This Week on School Choice, Appointment of Ed. Chief

The Senate Education Committee has scheduled testimony this week on [S.201](#), a public school choice bill introduced by Committee chair Sen. Kevin Mullin. S.201 would authorize public school choice for all elementary and secondary students beginning in school year 2013-14. The bill would specify that for two transition years, tuition payments would not be required, but beginning in 2015-16, sending districts would be required to pay tuitions. Both S.201 and Gov. Shumlin’s announced support for public *high school* choice are likely to influence testimony and committee debate. We will report on any outcomes that may result from the hearings in our next issue. At this time, our Associations believe that a thorough examination of the impacts of expanded school choice on student learning opportunities and on sending and receiving school communities would be necessary prior to adoption of this policy.

Meanwhile, the House Education Committee has dedicated much of this week to testimony and discussion of [H.440](#). This bill would replace the position of Commissioner of Education (who reports to the State Board of Education) with a Secretary of Education who would be appointed by and answerable to the Governor. H.440 would also reconfigure the State Board of Education. Under H.440, the Board would be expanded by adding two new members (twelve total including two students), and specifying that five members of the board each be selected by the Governor from a pool put forward by specific organizations. The Committee developed and passed this legislation last year, but at the tail end of the session, the bill was recommitted to House Education for further consideration.

Surplus Allocation to Education Fund (H.558)

Each year, the General Assembly adjusts the current-year state budget early during the session in a bill known as the budget adjustment act (BAA). This year, the [House-approved version of the BAA](#) includes an amendment that would require that half of any state budget surplus in future years be allocated to the Education Fund. The amendment was approved unanimously by the 138 House members in attendance at the time of the vote.

Section 112a would require that, beginning in FY 2013, half of any unreserved, unallocated surplus in the General Fund be transferred to the Education Fund. The allocation would continue until the cumulative surplus payments equal the amount by which the annual transfer of General Fund to Education Fund dollars was reduced in FY2012 (\$23.2 million) plus inflation. This surplus allocation would also increase the calculation of the annual transfer amount in future years. The bill is now under consideration in the

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Senate Appropriations Committee.

Senate Committee Approves CPR / AED Instruction Bill (S.245)

The Senate Education Committee has unanimously approved a bill that would require all public and independent schools to teach cardiopulmonary resuscitation (CPR) and use of automated external defibrillators (AEDs) beginning in the 2013-14 school year. Under the bill, [S.245](#), CPR and AED instruction would become a component of both the minimum course of study in schools (16 V.S.A. § 906) and of comprehensive health education (16 V.S.A. § 131). The full Senate is scheduled to consider the bill this week.

All secondary schools would be required to offer instruction in CPR and use of AEDs based on nationally recognized guidelines. The instruction would include skills-based experiences and assessments, and if taught by a certified instructor, would result in certification for students. The Commissioner of Education would be required to inform superintendents and principals annually of resources available to assist schools in CPR and AED instruction.

Our Associations testified that instruction in CPR is currently included in the Grade Level Expectations within the Framework of Standards. We believe that a single reference to CPR and AEDs in the definition of comprehensive health education would suffice to require schools to offer training within the curriculum.

Harassment Law in Schools (H.412)

The House Judiciary Committee is taking testimony on the sections 4-8 of [H.412](#), a bill pertaining to harassment in schools. Last year, the first three sections of H. 412, concerning off-campus harassment and bullying, were enacted as sections 35-37 of [Act 58 of 2011](#), the miscellaneous education bill.

Sections 4 and 5 of H. 412 would significantly expand the authority of the Human Rights Commission (HRC) in the area of harassment in schools. Section 4 would give the HRC the authority to file a class action lawsuit on behalf of a “similarly situated” group of students. Currently, the HRC can seek injunctive relief on behalf of a single individual. Section 5 would give the HRC the authority to monitor schools’ compliance with required harassment procedures. Section 5 also specifies that the HRC could sue school districts to enforce procedural compliance including a civil penalty of up to \$5,000 per violation.

Section 7 proposes to amend the Vermont Public Accommodations Act (VPAA) to create a new standard for courts to use when determining whether alleged conduct rises to the level of harassment. The current standard for a VPAA harassment claim in a school setting is that the student must show:

1. He or she was the victim of harassing conduct so severe and pervasive and objectively offensive that it deprived him or her of access to the educational opportunities or benefits provided by the school; and

2. The plaintiff exhausted the administrative remedies available, or that circumstances existed that relieved the plaintiff of the exhaustion requirement.

The proposal in Section 7 is to change the standard to be conduct that is so severe or so pervasive, rather than both.

House Judiciary is continuing to take testimony on the bill.

Education Property Tax Rates

The Ways and Means Committee has been deliberating the issue of setting education property tax rates for FY 2013. The Committee is attempting to balance the concerns of school officials who would like to know the tax rates as soon as possible and the uncertainty regarding the overall rate of change for school budgets. The Department of Education testified last week that it had received school board-approved budgets from approximately one-third of school districts. Based on data from these districts, the Department testified that school expenditures might increase 2.6 percent as compared to the prior year. Therefore, although the Committee has not taken any action, it appears that education property tax rates will increase approximately 2-4 cents, depending on final budgeted figures and whether the Legislature accepts the Governor's recommendation regarding the base education amount. The Governor recommended that the base education amount be held to a 2.1% increase; current law would increase the amount 4.1%.

Restraint Exemption for School Resource Officers (S.181)

The Senate Education Committee has unanimously approved a bill that would exempt school resource officers from compliance with recently implemented restraint and seclusion rules promulgated by the State Board of Education. [S.181](#) also specifies that school boards may enter into memorandums of understanding with law enforcement entities regarding the use and possession of any weapon or device by officers while on school property. The full Senate is scheduled to consider the bill this week.

Compulsory Attendance to Age 18 (S.233)

The Senate Education Committee is taking testimony a bill that would require compulsory school attendance to age 18. [S.233](#) would increase the mandatory attendance age from 16 to 18 over a four-year period ending July 1, 2016. Each July 1, starting this year, the mandatory attendance age would increase by six months of age.

In his State of the Union speech last week, President Obama announced that he supported state laws requiring mandatory attendance until age 18 or graduation. Currently in the United States, a total of 22 states have laws requiring compulsory education to age 18 while 11 mandate school attendance until age 17 (albeit in the context of various forms of statutory exemptions). With the President's specific reference to this requirement there is an increasing array of opinions, articles and research documents

focusing on the policy becoming available. It is clear that the public policy analysis around the topic is not cut and dry.

Our Associations intend to examine the research and communicate with our members in order to develop formal positions with respect to this proposal.

Committee Developing Modifications to Act 153

The House Education Committee has agreed on a general framework for a bill that would adjust the provisions of Act 153 of 2010. The purpose of the work is to improve the Act and to make adjustments to better facilitate voluntary mergers among willing school districts. As of this writing, the Committee has used outline documents to conceptualize the bill and this week we expect that they will complete their work examining actual bill language. What follows is a description of the Committee's working outline of changes:

- The bill would delete the requirement that all supervisory unions vote on whether to explore merger by October 1, 2012. This was the only required action in the voluntary merger provisions of the original bill.
- The bill would offer school districts and supervisory unions reimbursements of up to \$5,000 for consulting and facilitation services when districts pursue structural change that may lead to better student outcomes and cost efficiencies.
- For districts that act to develop merger plans for school districts or supervisory unions, the bill would direct the State to provide up to \$20,000 for consulting and legal service reimbursements to develop a specific plan of merger.
- The bill would offer an alternative option for financial incentives that would be granted to communities that successfully complete the creation of a Regional Education District (RED). The new option would be an alternative to the current law incentive (i.e., the RED's tax rate is reduced over a four-year period and no merging district's tax rate would increase or decrease more than five percent per year during the transition period). The new option would be simplified cash appropriation granted to the RED. The amount of the appropriation would be \$400 for each pupil residing in the RED.

Editor's Note: Both versions of the RED financial incentives would include up to \$150,000 in transition incentive grants.

- The bill would expand the scope of district merger projects that would be eligible for the same incentives that are offered to REDs. Three new types of mergers would become eligible for these incentives:
 1. If a group of districts seek to merge as a RED but cannot because some participants want to preserve historic school choice opportunities, this bill would offer a new

solution. If two simultaneous projects merge several districts into two districts, and the two mergers combined meet the four-district or 1,250 average daily membership standard required of REDs, then the merging districts would become eligible for RED incentives.

E.g., Three districts have school choice and three districts attend a public high school. If the six-district group merged into two districts simultaneously, the projects would be eligible for RED incentives.

2. If a majority of town school districts all belonging to the same union school district (e.g., a union high school) want to merge into a RED but cannot because one or two of the member districts do not want to participate, this bill would make a new solution available. The districts that want to merge could form a union school district that encompasses all the grades not served by the existing union district. If this new union district has membership from a majority of the members of the existing union district, the merger would be eligible for RED incentives.

E.g., Five town districts belong to a 7-12 union high school district. Four of the five town districts want to merge and one does not. Now, the four willing partners could merge into a K-6 union elementary school district and earn RED incentives, and other town school district could remain independent.

3. Formation of new interstate school districts would become eligible for RED incentives.
 - The bill would offer a \$150,000 incentive grant to supervisory union merger projects that are developed locally, petitioned to the State Board of Education, and approved by the Board (i.e., reducing the number of supervisory unions, unrelated to any school district merger project).
 - The report of school district merger study committees (i.e., committees formed under 16 V.S.A. § 706 and the report filed under 16 V.S.A. § 706b) would now be sent back to the participating school district boards for approval prior to being submitted to the State Board of Education.
 - The Committee is considering an extension for the deadline for full implementation of the existing requirement that special education services be managed at the supervisory union level.

Bill Would Direct the State to Bill and Collect Education Tax

As we have reported in prior issues, the Ways And Means Committee is considering a bill that would require the Department of Taxes to bill and collect the State's education property tax. The Committee is now examining a draft bill that would commence state billing and collection in FY 2015.

In the interim, the bill would require the Department study and report on the following, among other issues, by December 1, 2012:

- Assume the collection of delinquent education taxes will remain a municipal responsibility;
- Consider the feasibility of using current-year household income to determine tax liability (current law uses prior year income data to adjust current year tax liability);
- Estimated implementation costs;
- Recommended dates for billing and collection, assuming a single billing date and allowance for two tax payments.

New Bills

The following education-related bills have been introduced by one or more members of the Legislature from January 13 to January 31, 2012. To read any bill's full text or see its status in the Legislative process, go to <http://www.leg.state.vt.us/database/status/status.cfm>.

H.604 AN ACT RELATING TO STUDENT ATHLETES WITH SUSPECTED HEAD INJURIES

Introduced by Representatives Till and 36 other Representatives

Statement of purpose: This bill proposes to require the coach of a school athletic team to prohibit a youth athlete from continuing to participate in a training session or competition if the coach has reason to believe that the athlete has sustained a concussion or other head injury.

H.605 AN ACT RELATING TO A DECREASE IN A SCHOOL DISTRICT'S EQUALIZED PUPIL COUNT BECAUSE OF TROPICAL STORM IRENE

Introduced by Representative Grad of Moretown

Statement of purpose: This bill proposes to provide that, for purposes of determining a school district's education property tax rate for FY2014, FY2015, and FY2016, a district's equalized pupil count shall not reflect the loss of students who have moved from the district as a direct result of loss or damage caused by Tropical Storm Irene.

H.613 AN ACT RELATING TO GOVERNANCE OF THE COMMUNITY HIGH SCHOOL OF VERMONT

Introduced by Representative Emmons of Springfield

Statement of purpose: This bill proposes to amend the structure of the Community High School of Vermont board, correct references to an existing job title in statute, and eliminate local advisory boards as they relate to the Community High School of Vermont.

H.620 AN ACT RELATING TO SCHOOL CROSSING GUARDS

Introduced by Representatives McCullough of Williston and 36 other Representatives

Statement of purpose: This bill proposes to add a definition of "school crossing guard" to Title 23 and specify the scope of the authority of school crossing guards.

H.650 AN ACT RELATING TO PROVIDING ELEMENTARY SCHOOL EDUCATION

Introduced by Representatives Crawford of Burke and Campion of Bennington

Statement of purpose: This bill proposes to simplify the language in 16 V.S.A. § 821 that created exceptions to the general rules regarding the provision of elementary education.

H.651 AN ACT RELATING TO PUBLIC FUNDING OF APPROVED INDEPENDENT SCHOOLS

Introduced by Representative Buxton of Tunbridge

Statement of purpose: This bill proposes to require that independent schools receiving publicly funded tuition dollars be approved for special education in at least two disability categories by July 1, 2013 and in at least four categories by July 1, 2015. These provisions would not apply to independent schools that are not generally attended by general education students or that do not enroll at least 15 students per grade, averaged over a three-year period. Finally, this bill would replace one of the current limits on tuition paid to an independent school, which is the average announced tuition of Vermont union schools, with the average announced tuition of Vermont public schools.

H.653 AN ACT RELATING TO CRIMINAL RECORD CHECKS AND FINGERPRINTING OF EMPLOYEES OF CHILD CARE FACILITIES AND VULNERABLE ADULT FACILITIES

Introduced by Representatives Savage, Bouchard, Clark, Fagan, McNeil and Shaw

Statement of purpose: This bill proposes to require criminal record checks and fingerprinting of employees of child care facilities and vulnerable adult facilities.

H.658 AN ACT RELATING TO PARENTAL CONSENT TO MENTAL HEALTH TREATMENT OF MINORS UNDER AGE 18

Introduced by Representatives Savage of Swanton and Bouchard of Colchester

Statement of purpose: This bill proposes to require a parent or legal guardian, but not a minor, to consent to the examination of the minor under 18 years of age by a physician for the purpose of determining whether the minor is in need of involuntary mental health treatment, and it provides for a judicial review process.

H.664 AN ACT RELATING TO SECONDARY PUBLIC AND INDEPENDENT SCHOOL CHOICE

Introduced by Representative Olsen of Jamaica

Statement of purpose: This bill proposes to require school districts that operate secondary schools to pay tuition on behalf of resident students to the public or approved independent secondary school of each student's choice.

H.668 AN ACT RELATING TO SECONDARY AND POSTSECONDARY CREDIT FOR ADVANCED LEVEL COURSEWORK

Introduced by Representative Gilbert of Fairfax and 36 other Representatives

Statement of purpose: This bill proposes to require secondary institutions to grant secondary academic credit for postsecondary coursework. This bill also would require that Vermont postsecondary institutions receiving appropriations from the state adopt policies granting postsecondary academic credit to all enrolled students who have successfully completed advanced level coursework.

Postsecondary institutions, however, would have flexibility in awarding credit if the course is required in the student's declared major field of concentration.

H.680 AN ACT RELATING TO THE SIMPLIFICATION OF THE STATEWIDE EDUCATION PROPERTY TAX BY REDUCING THE PROPERTY COMPONENT OF THE TAX AND ADDING AN INCOME-BASED EDUCATION TAX

Introduced by Representatives Olsen of Jamaica, Condon of Colchester and Greshin of Warren

Statement of purpose: This bill proposes to alter how Vermonters pay education taxes. (*Editor's Note: Statement of purpose abbreviated.*)

H.682 AN ACT RELATING TO REQUIRING A STANDARDS-BASED PERFORMANCE ASSESSMENT PRIOR TO GRADUATION FROM SECONDARY SCHOOL

Introduced by Representatives Turner of Milton and Savage of Swanton

Statement of purpose: This bill proposes to require satisfactory completion of a standards-based performance assessment prior to graduation from secondary school, to permit graduation beginning in January of a student’s junior year, and to allow a student who graduates prior to senior year to continue to attend technical education and college preparatory classes until the end of the academic year in which the student was originally scheduled to have completed secondary school.

H.684 AN ACT RELATING TO EXAMINING HOW TO ALTER THE EDUCATION FUNDING SYSTEM AND GOVERNANCE STRUCTURES TO ENSURE EQUAL EDUCATIONAL OPPORTUNITIES AND IMPROVED OUTCOMES FOR ALL CHILDREN

Introduced by Representatives Manwaring of Wilmington and Moran of Wardsboro

Statement of purpose: This bill proposes to require a study and proposals that further the state’s commitment to the principles set forth in *Brigham v. State*, 166 Vt. 246 (1997) by:

- (1) determining specific ways in which the state’s education funding system and governance structures can be amended to ensure equal educational opportunity for all children;
- (2) identifying whether and in what ways state and local spending decisions can lead to accountability for student outcomes; and
- (3) ensuring that decisions leading to increased education spending are linked to increases in educational opportunities and student outcomes.

H.685 AN ACT RELATING TO THE MENTORING OF NEW TEACHERS

Introduced by Representatives Campion of Bennington, Buxton of Tunbridge, Christie of Hartford, Lewis of Berlin, Perley of Enosburgh and Stuart of Brattleboro

Statement of purpose: This bill proposes to provide new teachers with structured opportunities to receive mentoring from an experienced teacher.

H.686 AN ACT RELATING TO ENCOURAGING AGREEMENTS AMONG SCHOOL DISTRICTS AND TO THE RELATIVE POWERS OF SCHOOL DISTRICTS AND SUPERVISORY UNIONS

Introduced by Representatives Davis of Washington and Winters of Williamstown

Statement of purpose: This bill proposes to grant financial incentives to school districts that enter into interdistrict contracts to consolidate or share district assets or operations but choose not to merge into a single district. The bill would also allow an individual district to determine whether it would perform duties that are currently required of supervisory unions.

H.687 AN ACT RELATING TO ALTERNATIVE LICENSING OF SECONDARY TEACHERS

Introduced by Representatives Campion of Bennington, Buxton of Tunbridge, Christie of Hartford, Kupersmith of South Burlington and Stuart of Brattleboro

Statement of purpose: This bill proposes to encourage potential secondary school teachers to pursue studies in the content areas in which they are most interested.

H.688 AN ACT RELATING TO THE ASSESSMENT OF NEW TEACHERS

Introduced by Representatives Campion of Bennington, Buxton of Tunbridge, Christie of Hartford, Lewis of Berlin and Stuart of Brattleboro

Statement of purpose: This bill proposes to provide critical assessment to new teachers from a variety of sources during their first two years of employment.

H.690 AN ACT RELATING TO TUITION PAID BY A SCHOOL DISTRICT THAT DESIGNATES A SECONDARY SCHOOL

Introduced by Representative Buxton of Tunbridge

Statement of purpose: This bill proposes to change the amount of tuition that a school district that designates a public or approved independent school will pay on behalf of a student it has authorized to enroll in a different school.

H.692 AN ACT RELATING TO THE REPEAL OF SMALL SCHOOL GRANTS

Introduced by Representatives Turner of Milton and Savage of Swanton

Statement of purpose: This bill proposes to repeal 16 V.S.A. § 4015, which provides grants to small schools from the education fund.

H.697 AN ACT RELATING TO TEACHER QUALITY, TEACHER ASSESSMENTS, AND THE STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT

Introduced by Representative Turner of Milton

Statement of purpose: This bill proposes to raise the standards for licensing new teachers. It also would require a school district to make decisions regarding contract renewal and reductions in force based on performance evaluations, student achievement, and other factors unrelated to an educator's relative level of seniority. Finally, it would prohibit a new teacher who is offered employment as a teacher in a Vermont public school on or after July 1, 2013 from joining the state teachers' retirement system.

H.698 AN ACT RELATING TO GUIDELINES FOR DEVELOPING SCHOOL BUDGETS AND TO EDUCATION COSTS AND STUDENT PERFORMANCE

Introduced by Representative Turner of Milton

Statement of purpose: This bill proposes to require the commissioner of education to develop nationally informed guidelines to assist school boards to develop budgets for clearly defined categories of education spending and to require the school board to make the guidelines available to the electorate prior¹ to voting the budget at the district's annual meeting. This bill would also require the commissioner to develop a system to measure and rank each school district's annual percentage change in student performance on standardized testing as compared to its annual percentage change in education spending. Annually, the 10 most highly ranked districts would receive a grant of \$50,000 each. The per-pupil increase in spending for each of the 10 most poorly ranked districts would be considered excess spending for purposes of determining its district spending adjustment.

H.710 AN ACT RELATING TO THE STANDARD FOR SUBSTANTIATION OF CHILD ABUSE OR NEGLECT

Introduced by Representatives Martin of Wolcott and Woodward of Johnson

Statement of purpose: This bill proposes to change the standard for substantiation of child abuse from a reasonable person standard to preponderance of the evidence.

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