

## Issue #8 – April 22, 2013

With most likely under a month remaining in the first half of the 2013-2014 biennium, legislators are hard at work on a number of education bills, hoping to get them to the governor's desk in May. The Ways and Means committee recently introduced a bill intended to slow the growth in education spending; the House floor will see legislation on prekindergarten access this week; a bill making miscellaneous changes to education law has made it to the Senate; and committees still are taking testimony on flexible pathways, postsecondary affordability, and agency fees.

### Ways and Means Committee Introduces Education Funding Bill

Earlier this year, the House Committee on Ways and Means introduced a bill setting the education property tax rates and base education amount, which are set in statute but adjusted annually by the committee based on the recommendations of the commissioner of taxes. That bill ([H. 265](#)) was passed by the House in February with an amendment directing the Ways and Means committee to “continue their efforts to address concerns regarding education property taxes, including the financing, oversight, and educational outcomes of our current system.” With that in the mind, the committee spent much of the last few weeks discussing possible ways to slow the growth in education spending and create greater education tax equity. They eventually came up with [H. 538](#), introducing it with support from all 11 committee members.

The bill proposes changes to equalized pupil calculations, small schools grants, the excess spending threshold, the renter rebate program, and property tax adjustments, or “income sensitivity”; it also directs the Secretary of Education to develop a proposal to establish minimum student to staff ratios, including, to begin in FY16, tax incentives and tax penalties for compliance and noncompliance.

Sections 1 and 2 of the bill remove provisions that relate to schools with fast-growing or fast-shrinking enrollments. The **fast-growth provision**, which the bill repeals, allows

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school districts that gain at least 20 equalized pupils in a year to count more of those pupils (for education spending per pupil calculations) than a typical two-year average would permit. The **“hold-harmless” provision** provides a safeguard for districts that lose more than 3.5 percent of their equalized pupils in a year by capping the loss; this bill weakens that safeguard, changing the cap from 3.5 to 5.0 percent of equalized pupils.

Sections 3 through 5 of the bill apply to **small schools grants**, which would be phased out over four years for most schools that receive them, beginning in FY16. Exceptions would be made for small schools deemed eligible due to geographic necessity; determination of eligibility would be based on the methodology used in a recent Agency of Education [study](#) required under Act 153 of 2009. (In that study, 23 out of 104 districts receiving grants were considered eligible.) In FY11, the grants totaled just over \$7 million statewide, but savings would depend largely on how districts respond to losing this funding.

Schools whose education spending per equalized pupil exceeds the **excess spending threshold**—currently 125 percent of the *prior year's* statewide average (for FY14, \$15,456)—are taxed “double” on the amount over that threshold that they spend. Sections 6 and 7 of the bill reduce the threshold to 123 percent of statewide spending per pupil in FY15 and FY16 and then to 121 percent in FY17 and thereafter. Seven districts were affected in FY14 at the 125 percent amount. Because the excess spending threshold increases as statewide spending increases (and as enrollment declines), it is difficult to predict how many districts would exceed the lowered threshold in coming years.

Section 8 of the bill reduces “**allocable rent**”—the percentage of rent considered as the renter’s property taxes—from 21 percent to 19 percent. Effectively, this would reduce the amount of the rebate that renters with household incomes under \$47,000 receive. The change would save the state approximately \$2 million in FY15.

Sections 9 through 11 of the bill adjust **income sensitivity** parameters. The base rate for taxpayers paying based on household income would be raised from 1.8 percent to 1.9 percent beginning in FY15; and homeowners with household incomes over \$90,000 would be able to pay based on income for the first \$250,000 of housesite value, instead of the first \$200,000. Together, these changes would increase slightly the taxes for those with household incomes between \$47,000 and \$90,000 and would reduce the taxes for those with household incomes between \$90,000 and \$135,000, with benefits diminishing as incomes rise. This is intended to make more gradual the change in the amount paid in education property taxes from those paying based on income to those paying based solely on property value.

### **Proposed Amendments**

The Ways and Means committee is introducing an amendment to the bill regarding an issue, brought to their attention by the Agency of Education, that relates to the current tuition payment system for districts not operating some or all grades. In [a report](#) issued in January of this year, the Agency indicated that “the current tuition payment system ... is contentious and should be changed.”

The report goes on to explain, “under the current system, all districts receiving students on a tuition basis announce the district’s tuition amount on or before January 15 of the prior year (16 VSA § 826(a)). Once the tuition year has completed, districts submit expenditure and revenue data to the agency which then calculates the maximum tuition for each district. If the announced tuition of a district is more or less than 3% of the maximum,

districts must reconcile the difference (16 VSA §§ 823(a) & 824(1)). Often this reconciliation requires the sending district to pay a balance because the announced amount it paid was too low. The contention comes in because the district receiving the bill has not budgeted for the unexpected tuition bill.”

After hearing testimony from the Agency and the Vermont Superintendents Association on the topic, the committee asked both entities, in cooperation with the Vermont Association of School Business Officials, to make a recommendation for a change in the law. A work group, comprising representatives of all three, recommended a change to statute that would establish a “payment band” for tuition overcharges and undercharges. Under the proposal approved by the Ways and Means committee, receiving districts would be allowed to charge for tuitions undercharged at an amount beginning at a 3% discrepancy, but not exceeding a 10% discrepancy. Similarly, sending districts’ ability to recover amounts overcharged would conform to the same payment band of 3% to 10%.

Representative Johannah Donovan, chair of the Education committee, has introduced two amendments to the bill as well. The first one would replace the language that has the Secretary propose minimum student to staff ratios and a schedule by which schools would have to comply or else face tax penalties; instead, the Secretary would be directed *to collect data* necessary for such a plan. (Either way, the implementation of such ratios would require further legislative action next year.) The second amendment would have the Secretary examine the educational outcomes for students at small schools compared with students at larger schools, in particular low-income students; it also would have the Secretary consider to what extent the quality of education provided should be considered when determining eligibility for small schools grants.

Representatives from the Ways and Means committee presented the bill section by section to the Appropriations and Education committees, where concerns regarding many of the bill’s provisions—and the effect they might have on educational quality—were raised. The bill and amendments are on the House’s notice calendar for Tuesday, April 23.

## **Pre-K Bill, and Amendment, Headed to House Floor**

After passing through three House committees, [H. 270](#), a bill to provide universal access to prekindergarten education, will head to the floor this week. Accompanying it will be a number of amendments, including one from Representative Sarah Buxton that attempts to reconcile interests in ensuring enrollment options for parents and in ensuring the continued viability of existing pre-k programs. All nine Education committee members present voted in favor of that amendment. Soon after, the Appropriations committee voted 8-3 in favor of the *underlying* bill; they plan to vote on the amendment on Tuesday.

Under current law, school districts may choose to offer pre-k education—either by running a program or by entering into agreements with specific private providers—and in return include these children in their average daily membership (ADM) with a 0.46 weight. Most districts in the state already do this. As introduced, the pre-k bill, H. 270, would require all

districts to pay for pre-k (10 hours per week, 35 weeks per year); it also would allow parents to choose any available prequalified private or public program, whether or not their school district offers one, in which to enroll their child. Instead of having school districts negotiate contracts with individual providers, a statewide tuition rate, with the possibility for regional adjustments via rulemaking, would be set. Districts that previously have not offered pre-k—either through their own program or through paying tuition—would be able to count pre-k children in their average daily membership immediately.

The amendment that the Education committee approved, which retains much of the underlying bill, would establish “prekindergarten regions.” The regions would not be smaller than a school district’s geographic boundaries, would be based on “the availability of prequalified private and public providers, commuting patterns, and other region-specific criteria,” and would be designed “to support existing partnerships between school districts and private providers.” Districts would be able to choose to pay tuition to any prequalified provider at which a parent wishes to enroll their child—as the underlying bill would require—*or* could offer to pay tuition only to prequalified providers located within the pre-k region. In neither the underlying bill nor the amendment would districts ever be forced to begin or expand a pre-k program.

## **House Passes Amended Miscellaneous Ed. Bill**

The House passed the Education committee’s miscellaneous education bill ([H. 521](#)), but not before striking the section of the bill that prohibited a school district from closing a public school with the intention or the result of having the school’s buildings reopened as an independent school serving essentially the same students.

Instead, a new section creates a study committee, chaired by the Secretary of Education and with independent and public school representatives, to examine the issue in greater depth. The rest of the bill remained as introduced; it proposes a number of miscellaneous changes to education law. Among other things, it would require (as requested by the VSA and VSBA) joint school board/supervisory union board chair and superintendent training; and a study of teacher advisory groups in Vermont secondary schools.

After the House passed it, the bill was committed to the Senate Committee on Education, where they have begun taking testimony. The Agency of Education and others have raised a number of additional issues to be resolved, and the bill may be amended to address them. They relate to transferring property, adult basic education, the ability of supervisory unions to own property, the timing of audits ([H. 236](#)), and the confidentiality of the State Board of Education’s recommendations for Secretary of Education, among other topics. The committee also has been taking testimony on a likely amendment Senator Dick McCormack, the committee’s chair, has had drafted that expands on his childcare unionization bill, which was defeated in committee earlier this year (see below). We expect the bill to make it to the Senate floor in some form in the near future.

## Senate Ed. Committee to Introduce Childcare Provider Unionization

The Senate Committee on Education has spent part of the last two weeks taking testimony on the above-mentioned childcare unionization amendment. The language is largely the same as [S. 52](#), which proposed to allow licensed, registered, and legally-exempt childcare home providers *receiving subsidies* to vote to unionize in order to bargain collectively with the state over subsidy rates, professional development, the collection of agency fees, and other matters. The new language being discussed in the Education committee, however, would widen that bill's scope to include home providers both receiving and *not* receiving subsidies. With the inclusion of this latter group, the legislation applies to roughly 1,800 private providers. We have a number of concerns with this issue being reintroduced:

- The bill does not acknowledge any role for the Secretary of Education or local school boards, yet professes to be focused on the early care and education system. The prekindergarten system is administered jointly by the Agency of Education and the Department for Children and Families, yet this bill ignores the education side.
- The bill allows a group of home providers to negotiate state financial reimbursements with DCF. Because the STARS quality standards are substantially integrated with reimbursement rates, this opens the door to the process undermining quality standards established by the Agency of Education and DCF. The STARS program comprises the core quality standards for pre-k eligibility. Those responsible for education are not willing to turn over this issue to negotiations with a sub-group of providers—quality standards for our youngest children must be set by the state regulatory process.
- Child care subsidies are a *family* benefit for lower-income Vermonters. The level of income at which a family qualifies for a benefit is, and should be, a matter of state policy, not a matter of negotiation with providers.

The amendment, when formally introduced, will face these concerns as well as the question of whether a childcare provider unionization provision is germane to the miscellaneous education bill, to which it would be appended.

## House Committee Amends Agency Fee Bill

The House Committee on General, Housing and Military Affairs is scheduled to vote on the agency fee bill, [S. 14](#), on Tuesday, April 23. The legislation, already passed by the Senate, would require municipal and state employees, teachers, and administrators represented by a collective bargaining unit to pay agency fees in the same manner as union dues are paid. Approximately 700 teachers and 1,400 support staff would be affected by the legislation.

The committee has made two important changes to the version passed by the Senate. As amended, agency fees for teachers and support staff, based on an audit of chargeable and non-chargeable expenses, would be capped at 85 percent of union dues (previously there was no cap). The committee also amended the bill to stipulate that all additional revenue from these fees—which, for the Vermont-NEA, would be somewhere in the \$400,000 to \$500,000 range annually—be used “solely for the purpose of moderating [the employee organization’s] existing membership dues” (previously there was no such requirement).

Our associations continue to oppose this legislation, which removes a required topic of collective bargaining from negotiations without a “give” to local school boards in return. If the bill does progress, however, we feel it is imperative that it include the cap on agency fees and the stipulation that additional revenue be used for dues relief.

## **Other Updates**

### **Flexible Pathways ([S. 130](#))**

The House Committee on Education has continued taking testimony on S. 130, which would expand flexible pathways to graduation. The bill would increase funding for dual enrollment courses—for which high school juniors and seniors receive both high school and college credit—and early college programs, in which students complete simultaneously their senior year of high school and freshman year of college. It also would require students to work collaboratively with school representatives and parents in a process through which they would develop personalized learning plans (PLPs). The committee still is considering amendments concerning funding and PLP details, as well as whether students at independent schools that receive some public funding should be eligible for state-funded dual enrollment courses.

### **Vermont Strong Scholars ([H. 242](#))**

The bill that proposes to create a program to help make postsecondary education more affordable for certain Vermont students is still in the House Committee on Appropriations. The program would partially reimburse Vermont college graduates for a portion of their college debt; to be eligible, students would have to graduate from in-state institutions with a degree in a field relating to workforce needs in Vermont; they also would have to remain in-state and work in their field of study for three to five years. A version of the program was proposed by the governor in his inaugural address.

### **Concussions ([S. 4](#))**

The Senate bill relating to concussions in school athletic events remains in the House Committee on Education. The committee, which was referred the bill in mid-March after it was passed by the Senate, has taken some testimony at this point. Legislation addressing this same issue was enacted into law two years ago, in 2011, requiring regular training for coaches and prohibiting them from allowing student athletes who may have sustained concussions from participating in athletics. S. 4 would replace that legislation with more rigorous requirements, including that a certified athletic trainer or health care provider be present at all high school football, lacrosse, hockey, and wrestling competitions. The Education committee may or may not proceed with the bill.

### **Technical Corrections ([H. 524](#))**

The bill that makes technical corrections and changes to education law remains in the Senate Committee on Education. Act 98 of 2012, which created the Secretary and Agency of Education, directed the legislature to correct statute accordingly. Any needed substantive changes are being addressed in the miscellaneous education bill (H. 521, above); this bill should proceed without controversy.