

Issue #7 – April 9, 2013

Ways and Means Committee Approves Pre-K Bill

The bill that would expand access to publicly-funded prekindergarten education made another step forward last week with the approval of the House Ways and Means committee, which voted 7-4 in favor. Earlier this session, the House Education committee passed the bill as well, with nine votes in favor and two Representatives absent.

[H. 270](#), described in [our last report](#), would allow all parents to enroll their three- or four-year-old children in any public or prequalified private prekindergarten program statewide in which there is space available. Public funding would be provided for at least 10 hours per week of education, 35 weeks per year. The bill expands on the current system, which allows, but does not require, school districts to provide pre-k education—by running a public program or paying tuition to private programs. A list of public and prequalified private providers would be maintained by the Agencies of Education and Human Services; parents would be able to enroll their children at any listed program. To simplify the current process through which school districts negotiate with private providers, a statewide rate (with the possibility for regional adjustments) would be set through a rulemaking process.

A number of provisions were included in the bill as drafted to help school districts start or expand pre-k programs to meet increased demand. Originally, the weighting factor for children receiving pre-k education for at least 10 hours per week would have increased from 0.46 to 0.50; and costs for pre-k education would have been excluded from excess spending calculations for the first three years. These two provisions were removed from the bill in the Ways and Means committee. For the first two years, however, districts just beginning to offer or pay for prekindergarten education would be able to count those children immediately in their average daily membership instead of waiting for a two-year average to catch up. The bill would apply to enrollments on July 1, 2015 and after.

The bill has been referred to House Appropriations, where it likely will be addressed this week. Our associations support its passage and hope that, now with approval from the Education and the Ways and Means committees, it will move on to the Senate in the near future.

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Senate Ed. Considers Childcare Provider Unionization

Although S. 52, a bill that would have allowed private home childcare providers to bargain collectively with the State over subsidy rates, was defeated in the Senate Committee of Economic Development, Housing, and General Affairs earlier this year, almost identical legislation is being redrafted as a potential amendment to the miscellaneous education bill currently in the House (see below). The General Affairs committee spent weeks taking testimony on S. 52, which was introduced in January by nine Senators, including three members of the Education committee. The process culminated in the committee voting 3-2 in opposition to the bill.

As defeated in committee, the legislation would have applied to licensed childcare home providers, registered childcare home providers, and license-exempt childcare home providers who receive childcare subsidies. The language as being drafted for the Education committee—at the behest of committee chair Sen. Dick McCormack, who was also S. 52's chief sponsor—would include providers *not* receiving subsidies as well, substantially widening the bill's scope. There are few other substantive changes from S. 52.

Our associations are concerned particularly with the potential effects this could have on the delivery of publicly-funded early education. If enacted, childcare provider unionization could lead to the State bargaining with a union predominantly representing childcare providers not participating in the quality standards rating process. At a time when the legislature is working on a bill that would expand public-private early education partnerships and increase quality standards, such a step could negatively impact our state's early education system.

House Committee Takes Up Agency Fees

The House Committee on General, Housing, and Military Affairs spent much of last week taking testimony on the agency fee bill, [S. 14](#), which the Senate passed in early February. The bill would require non-union members—including municipal and state employees, teachers and school administrators, and some private sector employees—who are represented by a collective bargaining unit to pay agency fees in the same manner that union dues are paid. Currently, whether or not to require these fees is a subject for collective bargaining; this would remove that subject from the bargaining table, replacing it with *the manner in which* these fees are enforced. Approximately 700 teachers and 1,400 school support staff would be affected.

The fees are defined somewhat differently and given different names for state employees and for teachers, administrators, and support staff. For state employees, a “collective bargaining service fee” “shall not exceed 85 percent of the amount payable as dues by members of the employee organization ... and shall be used to defray the costs incurred by the employee organization in fulfilling its duty to represent the employees in their employment relations with the state.” For teachers and administrators, however, an “agency fee” is “a fee for representation in collective bargaining, not exceeding teachers' or

administrators' organization dues." Although the teachers' and administrators' union cannot charge the agency fee without establishing and maintaining a process to provide nonmembers with an audited financial statement differentiating "chargeable" and "nonchargeable" expenses, the required fees could be upward of 85 percent. For 2012-13, union dues were \$390 annually for teachers and \$195 for support staff. If fees *did* end up around 85 percent of these dues, the legislation would raise just under \$500,000 in additional annual revenue for the Vermont-NEA. There is no stipulation that this revenue be put toward dues relief for current members.

Our associations believe that removing this topic from the scope of collective bargaining negotiations could put added pressure on school budgets, and at a time when school boards are doing all they can to hold down costs. With education property tax rates increasing statewide, this legislation would only add to the difficulties in managing education cost-drivers while improving our quality of education.

The General, Housing, and Military Affairs committee plans to continue taking testimony and vote on the bill in the near future.

School Lunch Bills Progress

The two school lunch bills, [S. 26](#) and [H. 60](#), have made the jump from one chamber to the other. If passed, the legislation—the bills are basically identical—would have the State cover the student share of reduced-price school lunches for those students who receive them. (The state already does this for school breakfast.) To cover these costs in FY14, the State would appropriate \$322,250 from the General Fund to the Agency of Education. Costs likely would be similar in future years. With both the Senate and the House Education and Appropriations committees already having given their approval—and the House having voted 120-10 in favor—the legislation's future looks promising. The Senate version now is in House Ed., and the House version in Senate Ed.

Work Continues on Flexible Pathways Initiative

The House Education committee began taking testimony on the flexible pathways bill, [S. 130](#), introduced by the Senate Education committee earlier this session. It already has passed the Senate, with approval from the Appropriations committee as well.

The bill, described in [our last report](#), seeks to increase the availability and effectiveness of flexible pathways to secondary school completion and postsecondary readiness. To do so, it would allow qualified high school juniors and seniors to take two publicly-funded dual enrollment courses, for which the students receive both high school and college credit. It also would provide funding for high school seniors to participate in early college programs, in which students complete simultaneously their final year of high school and first year of college. The dual enrollment expansion would be covered by General Fund appropriations for the first two years and then split between the State and local school budgets. Early

college would be funded from the Education Fund; a relatively small number of students are expected to participate.

Other flexible and individualized opportunities—including work-based learning, internships, and virtual and blended learning—would be encouraged as well, through the development of best practices guidelines and technical assistance. A collaborative process through which students would develop personalized learning plans would underlie all these options—plans designed and annually updated by each student in consultation with a school representative and a parent or guardian. As passed by the Senate, these plans would be required of all kindergarten through 12th grade students, but amendments suggested since would have the plans apply only to 7th through 12th grade students.

We expect the committee to continue taking testimony on the bill—and on amendments relating to personalized learning plans and funding—this week.

Technical Changes to Act 156 of 2012

As part of Act 156 of 2012, which expanded incentives for school district and supervisory union mergers, a working group was convened to develop an [implementation plan](#) for the transition of special education staff to employment by supervisory unions. Members of that working group met with House and Senate Education committee members last week to present their findings and recommendations for legislative action.

The working group’s proposals included providing a definition for “special education employees”; simplifying the transitional collective bargaining process to require a master agreement in place prior to the change; including supervisory union boards as part of local negotiations councils for collective bargaining; ensuring this transition occurs during the next round of local negotiations; and exempting any transitional costs from excess spending calculations. While members of the working group reached consensus on many of the issues, the extent to which paraeducators should be subject to this transition was not agreed to by the Vermont-NEA, which issued a [minority report](#) on the subject.

Whatever action is taken regarding the working group’s recommendations for legislative action will proceed from the Senate Education committee, where the bill that became Act 156 first was directed in 2012.

FY15 Funding Discussions

Concerns about and discussions of education funding in Vermont continue in committee rooms at the State House. A bill setting the education property tax rates and education base amount for FY14 already has passed the Senate and sits in the Senate Finance committee, but legislators are looking into cost-drivers and potential changes to the funding system for FY15 and beyond.

House Ways and Means committee members are discussing proposals to do everything from consolidating supervisory unions to reducing or phasing out small school support grants; from implementing a statewide teachers' contract to lowering the excess spending threshold and adjusting the education property tax and income-adjusted rates. The discussions, still in their early stages, come after the above-mentioned Ways and Means committee bill passed the House with an amendment expressing the “intent of the General Assembly to examine our current education funding system.” Assuming that miscellaneous education bill passes, it would direct the tax committee to “continue their efforts to address concerns regarding education property taxes, including the financing, oversight, and educational outcomes of our current system”; they are to make a report by March 15 of next year, with the goal of implementing any changes for the 2015-16 school year.

Any evaluation of the aforementioned concepts should be based in a thorough analysis of whether the changes would contribute to the quality of the state's education system and demonstrably improve its cost-effectiveness. We plan to follow these funding discussions closely over the coming weeks.

Other Bills

Technical Corrections

The technical corrections bill, [H. 524](#), remains in the Senate Committee on Education, where it was referred after passing the House. The bill makes non-substantive changes—such as replacing “Commissioner of Education” with “Secretary of Education”—to Title 16 of the Vermont Statutes Annotated and other sections of statute dealing with education.

Miscellaneous Education Changes

The miscellaneous education bill, [H. 521](#), has been approved by both the House Education and House Appropriations committees. It would make a number of changes to education law (see [our last report](#)), in areas ranging from union school district formation to school board chair and superintendent training to independent school creation. While most of the changes are fairly technical, some sections make more substantive proposals. Some version of the bill almost certainly will be passed this year; which of the more controversial sections are included—and what else might get added (see childcare unionization, above)—remains to be seen.

Concussions in School Athletics

The House Committee on Education has begun taking testimony on [S. 4](#), “an act relating to concussions and school athletic events,” which passed the Senate last month. The bill would require an athletic trainer or health care provider trained in head injuries to be present at all high school football, hockey, lacrosse, and wrestling competitions. It also proposes changes to required head-injury training for coaches, athletic trainers, and referees. The bill would repeal and replace the concussions law already in statute, passed just two years ago by the legislature. We believe that that law should be given more time to take full effect. We also are concerned that this bill, which mandates actions from schools that have inherent costs without providing funding, could ultimately result in fewer

student athletic activities being offered. The committee has not taken action on the bill at this time.

Epinephrine Auto-Injectors

The committee also began testimony on [H. 409](#), “an act relating to stock supply and emergency administration of epinephrine auto-injectors in schools.” The bill would authorize schools to maintain a stock supply of epinephrine auto-injectors and to designate school personnel who may, in an emergency, administer epinephrine to any individual. It also would direct the State Board, in consultation with the Department of Health, to adopt rules that, among other things, would require school nurses and designated personnel to receive education and training on epinephrine auto-injectors and recognizing and responding to life-threatening allergic reactions. The committee has not taken action yet on this bill, either.

Postsecondary Affordability

[H. 242](#), which would create the Vermont Strong Scholars Program, is being discussed in the House Committee on Appropriations, where it was referred after passing House Ed. The bill would help make in-state postsecondary education more affordable for certain Vermont students by reimbursing them for part of their tuition over a three- to five-year period. Those who major in fields that meet workforce needs and stay to work in Vermont after graduating would be eligible. The committee will continue taking testimony this week.

VSC Funding Study

[S. 40](#), a bill that would create a subcommittee within the existing Prekindergarten-16 Council, has been referred to the House Education committee, having passed the Senate with strong support. The newly-formed subcommittee would develop policies to increase state funding to the Vermont State Colleges and to make higher education more affordable; and would report their findings and recommendations to the General Assembly next fall. The House Education committee has not discussed the bill at this point.