



Vermont Principals' Association
Supporting Learners and Leaders

Special Legislative Bulletin: Monday, April 29th

Below is a detailed description of education bills that are currently under active consideration as the legislature begins to finalize its work. We described all of them in previous reports, but some have been amended since. As always, each piece of legislation is subject to further changes in the remaining days of the session; we will keep you updated as action continues at the State House.

With only a few weeks left prior to adjournment, we encourage you to contact your state [Representatives](#) and [Senators](#) on issues regarding any of these bills. If you have a view on pending legislation that you want considered, it is imperative that your voice be heard.

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Universal Prekindergarten Access ([H. 270](#))

Overview: This bill expands the current pre-k system, which enables (but does not require) school districts to provide—by collaboration with one or more private providers of pre-k or by running a program, or both—10 hours per week of pre-k education to three- and four-year-olds whose parents wish to enroll them; and to count those children in their average daily membership with a 0.46 weight. *With* amendments approved by House committees, H. 270:

- Requires *all* school districts, for enrollments on July 1, 2015 and after, to offer *access* to publicly-funded pre-k education for all children whose parents wish to enroll them.
- Allows parents to enroll their children in any public or prequalified private program statewide in which there is space, *unless* the school board chooses to limit the geographic boundaries within which the district would pay tuition. The Agencies of Education and Human Services would then work with the school district to determine a “prekindergarten region”—no smaller than the school district and based on the availability of providers, commuting patterns, and other region-specific criteria—within which the district would partner with all prequalified private providers.
- Establishes a statewide tuition rate, with the possibility for regional adjustments made through rulemaking.
- *Does not* require any school district to begin or expand a school-operated pre-k program.
- Allows school districts not currently offering pre-k to include pre-k children in their average daily membership immediately, instead of waiting for a two-year average to catch up.

Fiscal: The Agency of Education has estimated that the number of participants will rise by 2,700 children, costing an additional \$9.8 million by 2020. Some portion of that will occur

under current law, however, regardless of this bill's passage—pre-k enrollment (and associated costs) has been rising by about six percent per year.

Status: The House Education, Ways and Means, and Appropriations committees have all voted to approve both the underlying bill and the amendment that allows school districts to establish “prekindergarten regions.” The bill is scheduled to be taken up on the House floor on Tuesday, April 30. If the House votes affirmatively, the Senate Education, Appropriations, and Finance committees will review the bill, after which, if passed, it would go to the Senate floor.

Education Funding ([H. 538](#))

Overview: H. 538, the bill to modify certain features of Vermont’s education funding law, has been approved by the House and is now under consideration in the Senate. As passed by the House, it makes the following changes:

Sec. 1-2: Equalized pupils

- Removes the fast-growth provision, which has positively affected the equalized pupil counts for districts with fast-growing enrollments.
- Increases the “hold harmless” provision for districts with declining enrollments from 3.5 percent to 5.0 percent, thereby diminishing the safeguard for these districts.

Sec. 3-5: Small school grants

- *Retains* small schools grants for all districts that are eligible under current statute. The Secretary is directed to study and report on educational quality at small schools compared with large schools, particularly for low-income students. (In an earlier version of the bill, small schools grants were phased out for most schools.)

Sec. 6-7: Excess spending threshold

- School districts that exceed the excess spending threshold for spending per equalized pupil—125 percent of the prior year’s statewide average—currently are taxed double for every dollar over that threshold. These sections reduce that threshold to 123 percent in FY15 and FY16 and to 121 percent in FY17 and thereafter.

Sec. 8-11: Property taxes and income sensitivity

- Reduces the percent of rent deemed to be property taxes for renters with household incomes of less than \$47,000 from 21 percent of gross rent to 19 percent, effectively reducing these individuals’ renter rebates. (In other words, those with household incomes, for example, between \$25,000 and \$47,000 currently can receive a rebate for any portion of their rent that exceeds 23.8 percent of income; this would bump up that number to 26.3 percent of income.)
- Increases and extends eligibility for a partial property tax adjustment to taxpayers with household income between \$90,000 and roughly \$130,000 by allowing them to pay based on income for the first \$250,000 of housesite value, instead of the first \$200,000, beginning in FY15.
- Raises the base household income tax rate from 1.8 percent to 1.9 percent beginning in FY15, thereby increasing taxes for taxpayers with household incomes between \$47,000 and \$90,000.
- Reduces the maximum property tax adjustment per claimant from \$8,000 to \$6,000.

Sec. 12: Student-to-staff ratios

- Directs the Secretary of Education to collect the data necessary for the development of a plan to establish minimum student-to-staff, student-to-administrator, student-to-classroom teacher, and student-to-teacher ratios, both at the school and the supervisory union level. Further action on the legislature's part would be needed to establish such a plan, but the bill suggests it might include mandatory minimum ratios beginning in 2015-16, incentives for compliance, and tax penalties for noncompliance beginning in 2016-17.

Sec. 13: Tuition overcharge/undercharge

- Currently, if a district that does not operate a school is over- or undercharged for tuition by more than three percent, the receiving district either charges or reimburses that district, in the following year, for the amount that was over- or undercharged. (If the difference is less than three percent, no money changes hands.) Sec. 13 of the bill instead creates a "payment band," from three to ten percent. Any portion of an over- or undercharge *between three and ten percent* would be charged or reimbursed; the first three percent and any amount over ten percent would not be.

Fiscal: The bill is estimated to save the Education Fund and General Fund a combined \$5.5 million in FY16, all from the adjustments to renter rebate and income sensitivity. Its larger purpose, though, is to establish downward pressure on education spending—primarily by lowering the excess spending threshold. It is impossible to know how this would affect local budget decisions and the Education Fund in coming years, but we have seen that the threshold is a marker carefully considered in school district budget decisions.

Status: The House approved the bill on Thursday, April 25 with an 86-32 vote, sending it on to the Senate; the Finance committee plans to take it up this week.

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

Overview: The bill expands funding for flexible pathways to secondary school completion and postsecondary school continuation and individualizes the student learning process. S. 130, in its most recent form:

- Allows high school juniors and seniors to take two publicly-funded dual enrollment courses at the University of Vermont, the Vermont State Colleges, or an in-state, accredited private postsecondary school, *if* the courses are included in their personalized learning plans and the students are considered qualified in that context.
- Directs the Secretary of Education to develop and publish guidance to assist school districts in implementing other flexible pathways, including virtual learning, blended learning, career and technical education, work-based learning, and internships.
- Requires students in grades seven through 12 to develop and annually update a personalized learning plan in consultation with a school representative and a parent or guardian. Implementation would be staggered—grades 7 and 9 one year, new grades 7 and 9 the next year, etc.—and would begin in fall 2015.

- Creates a working group “to support implementation of the personalized learning plan process, particularly in those schools that do not already have a process in place.”

Fiscal: For dual enrollment, the Next Generation Initiative Fund would cover the entire costs for FY14 and FY15 (approximately \$800,000 per year). After that, costs would be divided:

- Tuition for courses taught by instructors paid by the college (usually *at* the college) would be set at the Community College of Vermont rate (in FY14, \$699), except at CCV, where the rate would be 90 percent of their own rate. These costs would be split 50/50 between the Next Gen. fund (General Fund dollars) and local school budgets.
- Tuition for courses taught by instructors paid by the secondary school (usually *at* the secondary school) would be set at 20 percent of the CCV rate (in FY14, \$134). These costs would be included in local budgets.

Status: The bill was referred to the House Education committee after being approved in the Senate; it is there now, and testimony is well underway. The version of the bill as described above makes several changes to the Senate version: it no longer includes funding for an expansion of early college programs; and it limits requirements for personalized learning plans to grades seven through 12. We expect the committee to vote on the bill next week.

Agency Fees ([S. 14](#))

Overview: The bill would require a range of employees—state, municipal and judiciary; teachers and administrators—who are represented by a collective bargaining unit but are not union members to pay agency fees. As passed by the House:

- Approximately 700 teachers and 1,400 support staff would pay agency fees to the Vermont-NEA based on chargeable expenses but *not to exceed* 85 percent of union dues. The fees would be deducted in the same manner as union dues are deducted.
- A provision was added that would require that “an employee organization shall use any increased revenue resulting from the implementation of this act solely for the purpose of moderating its existing membership dues”. This amendment was responsive to our strong concerns about strengthening the union’s position in negotiations with school boards.
- The Secretary of Education would study “whether and in what ways public education in Vermont would benefit from including merit pay provisions in school employee contracts” and report back to the Legislature.

Fiscal: There are no associated appropriations, but there are potential consequences of removing this required subject of negotiation.

Status: The Senate voted in favor of the bill in early February; the House gave final approval on Friday, April 26, with an 85-53 vote. Before doing so, they made a number of amendments—capping fees at 85 percent; stipulating that they be used for defraying costs; creating the merit pay study—so the bill will go to a conference committee next, unless the Senate concurs with the House’s proposal of amendment.

Miscellaneous Education Changes ([H. 521](#))

Overview: The bill makes a variety of miscellaneous changes to education law. The version as passed by the House has been amended substantially by the Senate Committee on Education. The three main changes relate to closing a public school and opening an independent school; the transition of special education employees to employment by supervisory unions; and childcare provider unionization:

Creation of New Independent Schools (Sec. 16-18)

- As originally drafted, H. 521 prohibited a school district to cease operation of an elementary or secondary school “with the intention, for the purpose, or with the result of having the school building or buildings reopen as an independent school serving essentially the same population of students.” This language was removed on the House floor via amendment, replacing it with a study of the issue by a working group chaired by the Secretary of Education; the Senate Education committee has reinstated the original language.

Special Education Employees (Sec. 24-29)

Act 153 of 2010 requires that supervisory unions provide special education services on behalf of their member districts. The purpose of this change was to support more effective and efficient operations and to increase equitable access to services across districts, with the ultimate goal of improving student outcomes. The implementation deadline for this requirement has been extended twice. The Act 156 Special Education Work Group was charged with developing implementation guidance and identifying any amendments to statute necessary to achieve implementation statewide. The majority of that group recommended the following statutory changes, which were adopted as an amendment to H. 521 by the Senate Education committee:

- **Provide a definition of “special education employees” subject to the transition.** Act 153 requires that an s. u. “provide special education services on behalf of its member districts.” The law does not specify what “provide” means, but it has been broadly interpreted to include the employment of special education employees by the s. u., rather than by local districts. The question, then, is whether the law requires *every* employee working in special education to be employed by s. u.’s.
 - The amendment clarifies that the law requires all licensed special education teachers and administrators to be employed by the s. u. if their job assignment consists of providing special education services directly related to a student’s IEP or to the administration of such services.
 - Notably, the amendment leaves the issue of whether paraprofessionals are subject to the transition to a decision by the s. u. board, which will have the authority to determine whether employment of some or all paraprofessionals at the supervisory union level will lead to more effective and efficient delivery of services to students.
- **Simplify the transitional collective bargaining process.** Section 18 of Act 153 sets out rules governing the transition of special education employees from local districts to supervisory unions. The transition phase requires an employer to manage multiple contracts with employees that share the same interests and job functions, while at the same time trying to negotiate a new master agreement with

these employees. It also requires the parties to come to an agreement on employment-related issues outside of the collective bargaining process.

- H. 521 would require that a new collective bargaining agreement be reached between the employees and the s. u. prior to any change of employer or transfer of employees. This eliminates the transition phase and creates a cleaner relationship between the new employer and its employees from the outset. It allows the parties to negotiate up-front how issues regarding deployment of staff to different districts will be handled. Finally, it takes the current requirement—that the parties come to an “agreement” on RIF, seniority, and recall—into the collective bargaining process, which is governed by statute, rather than insist that an agreement be reached without any statutory construct for how the parties should resolve disputes.
- **Ensure that the transition occurs during the immediate next round of local negotiations.** Requiring a collective bargaining agreement with employees prior to any transition of employment will necessitate an extension of the effective implementation date.
 - Rather than require implementation by July 1, 2014, H. 521 requires implementation to occur after a full collective bargaining agreement is in place. Negotiations between the s. u. and their prospective special education employees must commence with the immediate next round of local negotiations. The bill also requires a report to the Agency of Education if the parties should fail to reach a new master agreement by July 1, 2015.
- **Exempt the costs associated with transitioning to a new special education assessment method from the excess spending penalty calculation.** As local districts transition from paying for their own special education staff to an assessment method or hybrid assessment method, there will be changes, sometimes significant, in local education spending. Some districts will see their special education spending increase and some will see it decrease, changes that will be largely beyond a district’s control.
 - H. 521 would exempt the portion of a district’s proposed budget directly attributable to assessments from the supervisory union that result in an overall increase in special education costs to the district.
- **Ensure that districts and/or supervisory unions that have proceeded with the transition under the requirements of Act 153 are held harmless from the requirement to have a full collective bargaining agreement in place prior to transition.** Some districts have proceeded with implementation and the Work Group felt strongly that none of the recommendations, if implemented, should in any way penalize, delay, or stop districts that have made significant progress towards or completed their special education employment transition from local districts to supervisory unions.
 - H. 521 allows districts that have completed the transition or have already negotiated terms to govern the transition to carry out their obligations to employees under the original provisions of Section 9 & 18 of Act 153.

Childcare Provider Unionization (Sec. 30-32)

By a 4-1 vote, the Senate Education committee appended language to the end of the bill that would allow childcare home providers—both those receiving subsidies and those not receiving them—to vote to unionize in order to negotiate with the state over subsidy rates and other matters. Roughly 1,800 providers would be included. A version of the legislation that included only providers receiving subsidies was introduced as S. 52 earlier this year and defeated in committee. We have some strong concerns about this being included in H. 521:

- The bill does not acknowledge any role for the Secretary of Education or local school boards, yet purports 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 committee made a number of other changes as well, including repealing grants for extraordinary transportation expenditures and repealing a section of the bill that allowed union school districts to transfer property to a town in which the property is located if the property was owned previously by a now-dissolved school district.

Fiscal: There is no significant direct fiscal impact from this bill.

Status: H. 521 was approved by the House earlier this month, after which it was referred to the Senate Education committee. It is scheduled to be taken up on the Senate floor on Tuesday, April 30. If passed as amended, the bill will head to a conference committee next, unless the House concurs with the Senate's proposals of amendment.

Concussions ([S.4](#))

Overview: The bill would repeal legislation addressing concussions and other head injuries in school athletic events that was enacted into law in 2011. As passed by the Senate, S. 4:

- Requires each school to have a concussion management action plan.
- Requires schools to provide a licensed health care provider or athletic trainer for all home athletic events in which a high school team participates in a collision sport—that is, football, hockey, lacrosse, or wrestling.
- Requires schools to notify a student athlete's parent or guardian within 24 hours if the student suffers a concussion. Health care providers would be required to notify

a visiting team's athletic director within 48 hours if an athlete on a visiting team suffers a concussion during an athletic event.

- Requires training at least every two years for referees on how to recognize concussions, as well as for coaches (as current law already requires).

Fiscal: No appropriation is associated with the bill, but it would require many school districts either to hire an athletic trainer or to contract with athletic trainers for home collision sport competitions. Costs would vary by district.

Status: The bill is currently in the House Education committee, where it was referred after being passed by the Senate. The committee has not taken action on the bill at this time, although they have taken some testimony. If they approve the bill, it would go either to the House Judiciary committee or to the House floor.

Free School Lunch ([H. 60/S. 26](#))

Overview: These two bills make the State responsible for funding the student-share of reduced-price school lunches for those students who are eligible. This is currently the case for reduced-price school *breakfasts*.

Fiscal: \$322,250 would be appropriated from the General Fund for this purpose in FY14. This sum is included currently in the House's appropriations bill. Costs in future years would be similar.

Status: Both bills were passed from the chambers in which they began with the support of the respective Education and Appropriations committees. H. 60 is in Senate Appropriations; S. 26 is in House Education. With the governor's support and both legislative houses having voted affirmatively already, this legislation should be enacted into law shortly.

FY14 Education Property Tax Rates ([H. 265](#))

Overview: The bill sets the education property tax rates and base education amount for FY14, something done on an annual basis. The rates for FY13 and proposed rates for FY14:

	FY13	FY14
Homestead property tax rate	\$0.89	\$0.94
Non-homestead property tax rate	\$1.38	\$1.44
Income-sensitivity rate	1.8%	1.8%
Base education amount	\$8,723	\$9,151

The proposals are similar to those recommended by the commissioner of taxes in November. The base education amount is statutorily set to increase annually according to an inflationary formula. The homestead and non-homestead property tax rates and income-sensitivity rate are set in statute at \$1.10, \$1.54, and 2.0%; recently, they have been reduced each year to the requisite levels to fund education spending.

Fiscal: The increases are required to fund a 5.5 percent increase in education spending statewide. A preliminary outlook for FY15 predicts similar increases.

Status: The bill is in the Senate Finance committee, where it was referred after being passed by the House. It will go to the Senate floor from there.