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MEMORANDUM

TO: Vermont State Board of Education
FROM: Robert Stirewalt, Director of Policy, Regulations and Legislative Affairs
SUBJECT: Legislative Update
DATE: April 17, 2017

Overview

The Agency of Education (AOE) continues to track key education-related bills that moved during crossover and are now being scrutinized in various House and Senate Committees, including both Education Committees, and the advancement of the big budget bill (H.513), and the yield bill (H.509) as they passed out of the House and are now under review in Senate Appropriations and Senate Finance.

AOE has testified extensively in multiple committees and continues to align its efforts as they relate to the priorities of Governor Phil Scott's Administration - affordability, growing the economy, and protecting our vulnerable populations.

Three key bills crossed over between the House and Senate. The Senate Miscellaneous Education bill is currently under review in House Education, and the House Miscellaneous Education bill is before Senate Education. A Senate bill that would add more flexibility for towns to merge under Act 46 (S.122) received nearly unanimous support in Senate Education and on the Senate floor, and is under review in House Education.

Miscellaneous Education Bills

The Miscellaneous Education bills in both the House and Senate were discussed at length as the respective education bills crossed over. For the most part, the bills have similar language. Many of the AOE's suggested changes were technical or designed to meet the requirements of the federal Every Student Succeeds Act.

The most discussed addition to the Senate Miscellaneous Education bill was suggested language from AOE and the Department of Children and Families (DCF) about the division of responsibility for conducting criminal record checks on employees and contractors retained by public schools, approved and recognized independent schools, and providers of prekindergarten programs. This was driven by challenges with the new fingerprinting process under Act 166.

The House bill language divides responsibility for background checks cleanly between superintendents for public prekindergarten programs and DCF's Child Development Division (CDD) for private prekindergarten programs, but also removes CDD regulatory authority over

public prekindergarten programs. After extensive debate, the Senate Education committee will include language that is a compromise between the House version and the initial language proposed by the Agencies. This should allow for division of fingerprinting responsibility, while leaving intact remaining co-administration responsibilities. This is the language for which the AOE and AHS are advocating.

The House version of the record check language bill was motivated by a desire to go beyond background checks to address more of the structural challenges to implementation embedded in the current Act 166 language. (*See discussion of PK bill below*). AOE Secretary Rebecca Holcombe and Agency of Human Services Secretary Al Gobeille have now testified in both House and Senate Education, and will testify in House Health and Human Services, to acknowledge that there are serious structural challenges with Act 166 that need to be addressed. The Secretaries asked the legislature to not make other changes to the PK statute this year, but to allow the Secretaries to do a more comprehensive review and return with more substantive and careful recommendations to remedy the problems in the next session. (*See attached memo: [Sec. Holcombe/Sec. Gobeille PreK Memo](#)*).

The Senate Version of the bill also includes language that requires the Secretary of Education to convene and chair a committee that “considers and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school.” (e.g. approved to take state dollars). The criteria it must address include the following:

- (1) the school’s enrollment policy and any limitation on a student’s ability to enroll;
- (2) how the school should be required to deliver special education services and which categories of these services; and
- (3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

S.122 and H.15 Act 46 Flexibility

S.122 would provide greater flexibility for school district consolidation by providing tax rate reductions and other transitional assistance to additional potential merger configurations. In addition, under certain circumstances, it would extend the deadline for voter approval of a proposal eligible for tax rate reductions and also extend the date by which non-merging districts would submit a proposal for consideration in the Statewide Plan. The bill also would require the State Board of Education to act on applications for supervisory union adjustments within 75 days of receipt; and would make certain technical and clarifying changes. The bill was strongly supported by Senate Education and received nearly unanimous support on the Senate floor as it was passed over to the House. The House Education Committee continues to review the bill and had suggested amendments to it by, among others, Representative Ben Joseph. Under a new variation of the proposed “3-by-1” option, Representative Joseph wanted to provide tax rate reductions for districts such as the three districts in the Grand Isle SU that had an approved merger last year (but aren’t otherwise eligible) and also to provide an exemption from potential SBE-required mergers for the SU’s two non-merging districts. The proposed amendment was met with skepticism by the committee, as are many possible changes. The committee is hesitant to alter S.122 in any way that could potentially undermine the primary intents of Act 46.

House Education voted 9-2 not to give further consideration to H.15. Some portions of the bill may be included in S.122, but we assume additions to S.122 will be limited.

The House Prekindergarten Bill

The House Prekindergarten bill (H.517) was reviewed for the first time by House Human Services on April 11. The bill would facilitate the ability of families to enroll a child, who is three or four years of age or is five years of age but is not yet enrolled in kindergarten, in a public prekindergarten education program or a private high-quality child development program; and clearly establishes the responsibility for regulatory oversight of public prekindergarten education programs and private high-quality child development programs. House Human Services is unlikely to take up the bill this year, as the bill did not make crossover. The bill would repeal the current law that entitles families to 10 hours a week for 35 weeks a year. The bill separates systems of care. Prekindergarten education would be under the jurisdiction of AOE, and child development under the authority of DCF. Currently they are comingled, and this bill would separate them into two distinct parts.