



219 North Main Street, Suite 402
Barre, VT 05641 (p) 802-479-1030 | (f) 802-479-1835

Legislative Update for the State Board of Education

This update was current as of 5 p.m. on Tuesday, March 20, 2018.

H.897 - Special Education Funding

H.897, an act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support, was amended by House Appropriations, sent to House Ways and Means and is now on the house calendar for approval by the House.

This bill is a result of the report from the District Management Group entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” and the report from the University of Vermont entitled, “Study of Vermont State Funding for Special Education.”

The bill proposes to support the delivery of special education services, and changes the funding model for special education from a reimbursement model to a census-based model in FY 2021. This will provide more flexibility in how funding can be used. The bill will also provide three additional staff and additional resources to the AOE to support its work with Supervisory Unions and schools that are transitioning to new ways of delivering services.

The extraordinary special education expenditure threshold was increased from \$50,000 to \$60,000 beginning in fiscal year 2020. Starting in FY 2020 Supervisory Unions/Districts will received reimbursement for 95% of the costs over \$60,000 plus the lesser of its excess expenditures or 60% times \$60,000 minus the educational support grant.

All supervisory unions will move to the census based funding model in FY 2021. The first year, each supervisory union will receive an educational support grant calculated by taking the average actual special education spending in FY 2017, FY 2018, and FY 2019 divided by the average ADM in FY 2017, FY 2018 and FY 2019. Over the following years, each supervisory union will transition to a uniform educational support grant in FY 2025.

As the law is currently written, the State Board of Education shall establish the uniform base amount for the educational support grant. Currently there is a provision for a poverty adjustment to the education support grant, the specifics regarding the calculation and the allocation of the poverty adjustment are delegated to the state board to be adopted through rulemaking.

The bill also creates a census-based funding advisory group of 17 members, including three representatives from the AOE and the Secretary of Education. The group will submit a written report with its findings and recommendations to the General Assembly as well as provide feedback to the state board in the rulemaking process.

The bill also tasks the AOE to contract for an education weighting report and to consult with AHS, the Vermont Superintendents Association, Vermont School Boards Association and the VT-NEA.

Major changes to the bill since its initial introduction, include the House Appropriations Committee addition of a statement that recognizes the savings this bill will create. The committee also extended the deadline for the AOE to complete the weighting study from February 15, 2019 to March 15, 2019.

The Senate Education Committee is also taking testimony in preparation of receiving the bill.

S.257 – Miscellaneous Ed Bill

The first section of the bill focuses on tuition portability for secondary education. The language limits it to:

(A) contiguous to Vermont; or (B) in a state that pays publicly funded tuition for its resident students to attend a public or approved independent school in Vermont; or (7) a school to which a student on an individualized education plan has been referred or placed by the student’s individualized education plan team or local education agency.

Sen. Rogers introduced an amendment that would extend this to Canada, too.

The bill also includes language that would extend dual enrollment opportunities to all approved independent schools. All independent schools would be eligible, even if they do not receive public funds.

A section on postsecondary institutions closing removes the AVIC language, and instead says:

“If an institution of higher education is placed on probation for financial reasons by its accrediting agency, the institution shall, not later than two days after learning that it has been placed on probation, inform the State Board of Education of its status, and not later than 90 days after being placed on probation, shall submit a student record plan to the State Board for approval. - 799 - (2) The student record plan shall include an agreement with an institution of higher education or other entity to act as a repository for the institution’s records with funds set aside, if necessary, for the permanent maintenance of the student records. (3) If the State Board does not approve the plan, the State may take action under subsections (d) and (e) of this section.”

The bill also includes a statement of support to create an interstate school district between Stamford, Vt. And Clarksburg, Mass.

There is also a section that makes it so preK students are not counted for small school grants. This is a technical correction to an amendment from the first half of the biennium.

PreK language is included the Senate’s Miscellaneous Education Bill.

The purpose of this language is to eliminate the joint administration of PreK by the AOE and AHS, and to designate the AOE as the lead agency. It also centralizes the PreK accounting and contracting functions by moving them from the district level to the AOE, paid out of the Education Fund by the Secretary.

The first 10 hours of preK education will be paid directly from the Education Fund by AOE, regardless of where the preK student is receiving a preK education. These preK students will not be counted for purposes of ADM for the first 10 hours, regardless of where they are receiving a preK education. If a resident district offers a preK program greater than 10 hours, then the district may count any additional hours over the first 10 for purposes of ADM, up to an additional 10 hours (i.e., a total of a 20 hour program). (Note: this language is currently disputed and likely to evolve).

In the bill, five-year-olds will continue to be eligible for publically funded PreK if they are not eligible to be enrolled in Kindergarten, or if the child is on an IEP. The bill also removes the language allowing private providers to meet minimum program quality by having three stars in the STAR system with a plan to achieve four or more stars. It also requires family child care homes to employ or contract the services of at least one licensed teacher for active supervision and training.

Licensed public providers must have a licensed teacher to provide direct instruction during the hours that are publically funded.

The bill also establishes a system that will evaluate implementation of publicly funded PreK programs, and collect data to inform future decisions, such as program details, enrollment numbers, and the number of private and public programs.

The PK language would take effect on June 1, 2019.

And finally, the bill includes language to establish a School Radon Mitigation Committee, tasked with finding a funding source for radon mitigation. The bill would require the Secretary of Education or designee to be a member, and would require the AOE to provide legal assistance and pay to support the committee.

The Miscellaneous Ed bill is awaiting action on the Senate Floor for third reading. Upon passage, we anticipate that the House Education Committee will be the first to receive it. The House Ed Committee has expressed interest in doing something on PreK, but they are waiting to see what comes over from the Senate.

The bill also offers payment of dual enrollment vouchers out of the education fund for students enrolled in all approved independent schools, including parochial schools.

S. 229 Approved Independent Schools

This bill is the result of work by the Approved Independent Schools Study Committee in 2017. The study committee was charged to consider and make recommendations on the schools' enrollment policy and any limitation on a student's ability to enroll; how the school should be

required to deliver special education services; and the scope and nature of financial information that should be required to be reported to the SBE or AOE. The study committee was unable to agree on final legislative language, but did agree that Vermont students with disabilities should be free to attend the schools that they, their parents and the LEA deem appropriate.

This bill requires any approved independent school that accepts public tuition to enroll any student requiring special education services who is referred to the school as an appropriate placement by the IEP team. The school is not required to demonstrate that it has the resources to serve every category of special education in order to be “approved”.

An approved independent school that enrolls a student requiring special education services shall enter into a written agreement with the LEA to provide the staff or resources. If the independent school doesn’t have staff or services on site, the public district is obligated to provide those services at the independent school, for up to 9 months (a school year).

The bill includes language that would require approved independent schools experiencing any of seven financial reporting events to notify the Secretary of Education within five days, including the school’s failure to file tax returns when due, failure to meet payroll obligations, the school’s use of designated funds for nondesignated purposes, and more. If the SBE concludes that an approved independent school lacks financial capacity, the board may take action.

The bill treats Section 504 as if it were the same as IDEA. Special education is an entitlement and federal, state and local funding must be available to provide services and supports required by IEPs. Section 504 requires entities that receive federal funds to provide “reasonable accommodations” to individuals who have either temporary or long-term conditions that limit major life functions. The independent schools have the responsibility to carry out Section 504 for students placed in the schools.

The bill assumes Special educators just provide direct services to identified students. In practice, they consult with classroom teachers, supervise paraprofessionals, conduct evaluations, complete required paperwork and documentation, communicate with parents and more. Independent school staff would need to understand that special educators do not just provide direct services but also consult with classroom teachers so that students with IEPs can “access and progress” in the general curriculum as required by IDEA. There are no extra special educators in our schools so LEAs would be forced to hire additional special educators to serve students in independent schools for unpredictable periods of time in potentially multiple schools. Travel to independent schools would be a new expense.

Related service providers and SLPs are even more scarce. Schools are already challenged to find these staff and sometimes have to contract with private organizations or individuals who can cost more than someone on the school’s staff. It would be costly and sometimes not possible to find individuals who could be sent to independent schools.

This bill was passed by the Senate, and was sent over to the House, which referred the bill to House Education.

Workforce Development

Most relevant to the SBE are the bill's recommendations concerning CTE. The bill promotes introducing CTE to students earlier in their education (i.e. middle school), fosters career readiness for all students, also beginning in middle school, and allows for up to four local pilot programs that model unified funding or governance structures that are designed to streamline the delivery of educational experiences to both high school and CTE students.

The bill also identifies the Vermont Department of Labor (DOL) to provide oversight of the implementation of adult technical education. This is consistent with its current funding stream, which comes largely from Next Generation funds out of DOL.

This bill was passed by the House and will be sent over to the Senate.

S.261 - Trauma

[S.261](#) proposes to address trauma and toxic stress in childhood, build resilience among children and their families, and improve systems that support persons who have experienced trauma and toxic stress. The intent is to coordinate care for children and families by linking community and medical services, prevent childhood trauma and toxic stress through early interventions and prevent opioid addiction and other forms of substance use disorders.

AHS would create a Coordinator of Trauma-Informed Systems. A Childhood Trauma Tri-Branch Commission of 19 people (including the Secretary of Education) would also be created to examine current services and identify gaps and barriers and determine the cost of more assistance.

AOE, AHS and DCF would be required to provide information online about evidence-based and evidence-informed trauma prevention and resiliency-based trainings throughout the state.

The Standards Board for Professional Educators would also create a requirement that teachers and administrators receive trauma-informed practice training. Employees of licensed family child care homes and center-based child care and preschool programs would also have to receive the training.

This bill was passed by the Senate with an [amendment from Sen. Lyons](#) that gives a position to AHS. The House referred it to House Human Services.

H.911- Education Finance

This bill proposes changes to Vermont's personal income tax and the education financing system.

The proposed funding system mirrors Act 60 with a base amount and any spending over that base amount subject to an additional tax. The education funding proposal sets a base spending amount for a homestead tax rate of \$1.00. Any district spending over that base amount will

have an additional tax rate based on the overage. In addition, a school income tax surcharge will be levied on all taxpayers and will be collected along with the regular income tax.

While the homestead tax rates for all districts are projected to decrease by 10% on average, the school income tax surcharge is not taken into account. This will serve to mask the taxpayer's cost and will essentially shift costs from one category of taxpayers to another.

Additionally, the bill proposes to move the General Fund transfer out of the Education Fund and back to the General Fund, replacing it with the 100% of sales and use tax, 25% of the rooms and meals tax, and the school income tax surcharge.

The entire Flexible Pathways, the community high school and adult education programs are moved out of the Education Fund and placed in the General Fund. And districts will be required to include the portion of the normal contribution to the Vermont Teachers' Retirement Fund attributable to them as part of their education spending.

Changes to the education financing system for FY19:

- Sets a base spending amount of \$11,916.00 per equalized pupil for school districts
- Any amount a district spends above \$11,916.00 per equalized pupil would be divided by a property dollar equivalent yield of \$8,500.00. This lower yield will raise the homestead property tax at a faster rate than current law for those taxpayers who pay based on property
- Sets a base income percentage of 1.66 percent for taxpayers who pay based on income; the base percentage is increased by the education property tax adjustment
- Sets the nonresidential rate at \$1.591
- Adds a School Income Tax Surcharge, built upon the reformed income tax system. It is the same rate for the whole state.
- Eliminates the excess spending penalty
- Eliminates the General Fund transfer to the Education Fund
- Separates municipal and education tax bills
- Eliminates the "5% provisions" in Acts 153, 156 and 46 that limit a town's equalized homestead property tax rate from increasing or decreasing more than 5% except for some districts that had very low homestead rates this year. They are allowed to increase at no more than 5.0% annually for the 4 year transition period under Act 46.