

Education Legislative Report



May 31, 2007

2007 Education Legislative Review

At a press conference in February, the Speaker of the House, the President Pro Tem of the Senate, and the Governor stood together and announced there would be “change” to provide “property tax relief this year,” and on May 12, in the final moments of the 2007 legislative session, they joined again to announce a compromise school “cost-containment” measure. The *Burlington Free Press*'s Nancy Remsen described the political atmosphere leading up to the deal on House bill 526 in an article published shortly after the session adjourned:

Answering the cost question turned out to be a challenge lawmakers found they couldn't accomplish in a winter. They needed more information. As a result, the House proposed only modest cost-containment measures, which [Governor] Douglas characterized as too weak to respond to taxpayers' demands. The stage was set for political confrontation.

[President Pro Tem] Shumlin changed the political dynamic by persuading his Senate colleagues -- just barely -- to adopt the governor's cost-containment proposal. That gave Douglas a stake in the legislative end game.¹

Although the “compromise” does not cap school budgets in the manner initially proposed by the administration, the education spending “benchmarks,” as they are being characterized by legislative leaders, and the requisite supplemental budget votes in H.526 apparently satisfied the Governor. He is expected to sign the bill into law, making the spending “benchmarks” and divided question voting requirements effective for FY2010 school budgets.

Inside this Report

Bill

H.526	Education Quality and Cost Control.....	pg.1
S.93	Miscellaneous Changes to Education Law.....	pg.7
H.534	Prekindergarten.....	pg.9
S.51	Prohibiting Discrimination on the Basis of Gender Identity.....	pg.10
S.13	Bus Idling on School Grounds	pg.10
S.121	Act 35 – Enhancing Vermont’s System of Care for Individuals with Autism Spectrum Disorders	pg.11
H.15	Act 31 – A Statewide School Year Calendar	pg.11
H.405	Capital Construction and State Bonding	pg.12
H.537	The Appropriations Act	pg.13
S.177	Child Poverty in Vermont	pg.14
H.433	Workforce Development Programs and Internships	pg.14
S.34	Alternatives to Dissection	pg.15

The spending scheme in H.526 was enacted in lieu of the House’s original plan to lower the excess spending threshold. The threshold will remain at 125% of the prior year’s average statewide per pupil spending.

This Report describes the provisions in H.526 as well as bills that passed both legislative houses on subjects ranging from autism to pre-kindergarten education. All of these bills have been described in previous Legislative Reports as they made their way through the legislative process.

H.526 Education Quality and Cost Control

(This presentation is based on best available information at this time. Several aspects of this bill regarding the divided question budget process will require further interpretation and analysis before all its implications are understood.)

Spending Targets & Supplemental Budget Votes – Sections 5-6

Effective for FY2010 school budgets, districts that spent greater than the prior year's statewide average per pupil education spending will be authorized to seek only a limited increase in per pupil expenditures without securing a second favorable vote from the electorate. This allowable spending increase, based on statewide average spending and an inflationary index, will be referred to as the "maximum inflation amount," or "MIA." If a district board seeks to increase spending above the MIA, it will be required to do so via a second article on the school district warning. School districts that in the prior year did not spend more than the statewide average, can propose a budget increase of any size in one vote, as is currently allowed.

MIAs and supplemental budget votes will sunset for school years beginning in 2014-15, assuming the Legislature does not act before then to alter or eliminate them.

A district subject to the MIA that must budget above the MIA must gain voter approval for the above-MIA spending in a separate ballot item. Note that both budget votes will require simple majority approval, not a supermajority as had been proposed by the Governor. This conforms with Speaker Symington's stated "bottom line" that supermajority voting requirements would not be acceptable. H.526 proscribes that the two budget items be warned as follows:

"School Budget Question #1: Shall the voters of the School District approve a total budget in the amount of [\$], which includes the Maximum Inflation Amount of education spending?"

"School Budget Question #2: If Question #1 is approved, shall the voters of the School District also approve additional education spending of [\$]?"

Note: The per pupil MIA can be applied to either the prior year's pupil count, or the pupil count for the year in which the budget will be effective, whichever is greater. The Department of Education will be responsible for determining both counts and informing districts. See the S.93 description below for more details on this issue.

DIVIDED QUESTION PRIMER – DOES THIS AFFECT MY DISTRICT & HOW?

The following describes how to calculate whether a particular district is subject to the divided question budget approval process, and what amount of spending would be required to be proposed in the second question.

1. MIGHT MY DISTRICT BE SUBJECT TO A DIVIDED QUESTION BUDGET?

If a district's per-pupil education spending was greater than the statewide average in the prior year, yes, the next proposed budget could be subject to a divided question. The Commissioner of Education will be responsible for officially notifying districts whether their prior year spending was above the statewide average.

2. WILL MY DISTRICT BE SUBJECT TO A DIVIDED QUESTION BUDGET?

If you answered yes to question 1, and the district's budget proposal includes spending in excess of the maximum inflation amount (MIA), the district will be subject to a divided question budget vote.

3. HOW DO I CALCULATE THE MAXIMUM INFLATION AMOUNT (MIA)?

Begin with the prior year's statewide average spending per equalized pupil. As an example for illustrative purposes, assume average spending was \$10,071 in FY07. Multiply that base number by the sum of the

percent change in the New England Economic Project cumulative price index from the prior year (3.32% in FY08) plus 1.

$$\$10,071 * 4.32\% = \$435$$

Add the resulting figure (\$435 in our example) to the district's prior year per pupil education spending. This sum is the district's per pupil MIA. Multiply this sum by the district's pupil count to determine the district's MIA.

The district's pupil count will be the larger of the following, as determined by the Commissioner of Education: The district's equalized pupil count in the prior year, or the district's equalized pupil count in the year for which the budget is proposed.

4. WHAT AMOUNT OF THE BUDGET MUST BE WARNED IN THE FIRST AND SECOND QUESTIONS?

If you answered yes to question 2, all proposed spending up to a district's MIA must be included in the first question, and all proposed spending in excess of a district's MIA must be included in the second question.

The following are examples of the calculation, as though H.526 was in effect during the FY08 budget approval process.

Brattleboro

- A. FY07 per pupil education spending: \$11,590
- B. Subject to divided question budget vote process (Line A above \$10,071)? Yes
- C. FY08 per pupil education spending MIA (Line A plus \$435): \$12,025
- D. FY08 proposed per pupil education spending: \$12,806
- E. FY08 proposed education spending above MIA? Yes
- F. FY07 equalized pupil count: 1,689.85
- G. FY08 equalized pupil count: 1,649.23
- H. Larger of two pupil counts: 1,689.85
- I. FY08 budget proposal for **Question #1** (Line H * Line C): **\$20,320,446.25**
- J. FY08 budget proposal for **Question #2** (Line D * Line G – Line I): **\$799,593.13**

Town of Orleans

- A. FY07 per pupil education spending: \$11,072
- B. Subject to divided question budget vote process (Line A above \$10,071)? Yes
- C. FY08 per pupil education spending MIA (Line A plus \$435): \$11,507
- D. FY08 proposed per pupil education spending: \$12,996
- E. FY08 proposed education spending above MIA? Yes
- F. FY07 equalized pupil count: 154.49
- G. FY08 equalized pupil count: 151.24
- H. Larger of two pupil counts: 154.49
- I. FY08 proposed budget for **Question #1** (Line H * Line C): **\$1,777,716.43**
- J. FY08 proposed budget for **Question #2** (Line D * Line G – Line I): **\$187,798.61**

Brookfield

- A. FY07 per pupil education spending: \$11,273
 - B. Subject to divided question budget vote process (Line A above \$10,071)? Yes
 - C. FY08 per pupil education spending MIA (Line A plus \$435): \$11,708
 - D. FY08 proposed per pupil education spending: \$11,519
 - E. FY08 proposed education spending above MIA? No
 - I. FY08 proposed budget for **Question #1** (Line H * Line C): N/A
 - J. FY08 proposed budget for **Question #2** (Line D * Line G – Line I): N/A
- Brookfield would vote on the budget proposal as one question, as is current practice.*

Town of Windsor

- A. FY07 per pupil education spending: \$9,861
 - B. Subject to divided question budget vote process (Line A above \$10,071)? No
 - C. FY08 per pupil education spending MIA (Line A plus \$435): N/A
 - I. FY08 proposed budget for **Question #1** (Line H * Line C): N/A
 - J. FY08 proposed budget for **Question #2** (Line D * Line G – Line I): N/A
- Windsor would vote on the budget proposal as one question, as is current practice.*

OTHER PROVISIONS OF H.526**Property Tax Adjustment Cap – Sections 2-3**

The property tax adjustment (i.e. prebate plus rebate) for an individual is currently capped at \$10,000 for a single year. H.526 lowers this cap to \$8,000, beginning with claims filed in 2008.

FY2008 Property Tax Rates – Section 4

H.526 lowers the statewide education property tax rates two additional cents for FY2008 only. Lawmakers had already lowered rates this year in Act 17, and combined with H.526, the state-wide homestead property tax rate will be \$0.87 and the nonresidential rate will be \$1.36.

Grade Level Weighting – Sections 7-9

The secondary pupil weighting, currently 1.25, will be reduced to 1.13, effective for the upcoming school year. According to an analysis by the Department of Education, the new weighting will more accurately reflect the actual cost of educating high school students, and will be implemented in tandem with provisions of Act 130, the law that separates union high school costs from member district costs for purposes of showing how tax rates are arrived at.

This provision also directs the Commissioner of Education to study the accuracy of the grade level weights every second year, and to recommend changes, if any.

Fiscal Review of High Spending Special Education Districts – Section 10

The Commissioner of Education is directed by H.526 to identify high spending special education districts annually. The Commissioner must then conduct a performance review of each identified district, and if he determines the results to be unsatisfactory, the Commissioner and the district must jointly develop a remediation plan.

The district would then have two years to make progress deemed “satisfactory” to the Commissioner. If the district does not make satisfactory progress after two years, it would be subject to an annual withholding of 10% of its special education reimbursement. Before facing withholding, the district would

be required to “explain to the State Board of Education either the reasons the district believes it made satisfactory progress on the remediation plan or reasons it failed to do so.” The Board’s decision related to withholding reimbursement will be final. Once satisfactory progress has been made, only the prior year’s special education withholding would be provided to the district.

School Districts; Analysis and Recommendations Regarding High Spending - Section 11

This section directs the Commissioner of Education to study factors contributing to school districts exceeding the excess spending threshold, and to develop recommendations for exemptions in specific circumstances associated with high special education costs and tuition costs when most or all students attend schools outside the district.

Notice to Taxpayers – Section 12

Beginning next year, every tax bill mailed to taxpayers will include a two-page flyer intended to educate recipients on the relationship between school spending and education property tax rates. The flyer has already been designed by House Education Committee chair Janet Ancel and others, and its subtitle is, “The more you spend, the more you pay.”

Cost Drivers – Section 13

The Joint Fiscal Office (JFO) will annually study cost drivers in education spending. The study will include an analysis of health benefits, special education spending, and other specific areas. Reports to the House & Senate Education Committees will be due annually on December 1, and a preliminary report will be due this June 1.

Operational Effectiveness and Efficiency of the Dept. of Education – Section 14

A committee will be created to select a qualified entity to evaluate the Department of Education (DOE) and propose ways to increase its efficiency. The evaluation will include the effectiveness of communication between the DOE and the field, identification of redundancies, and the creation of an ongoing strategic planning process that allows for constant review. The evaluator will report to the committee as well as to the House & Senate Committees on Education in December. The committee will be chaired by the Commissioner of Education or his designee, and include a member from each of our associations, the Vt-NEA, the VCSEA, VASBO, and the Vermont Business Roundtable.

Provision of Special Education Services; Study – Section 15

The Joint Fiscal Office (JFO) is directed to study the how the Agency of Human Services, the Department of Education, and the Department of Employment and Training should provide for special education services for persons under 22 years of age. In conducting the study, the JFO is directed to consult with the agencies named above, our associations, and a wide array of other educational stakeholders. The study will identify human service functions now performed by public schools, and provide a method for calculating the cost of those functions. The study will also look at how Medicaid funds are used in schools. The JFO will report to the Legislature by November 1.

Educational Services Funded by Medicaid; Study – Section 16

The Joint Fiscal Office (JFO) will also study how to maximize Medicaid funds by ensuring all eligible students are enrolled. The JFO will consult with relevant state agencies and report to the Legislature by December 1. The study will include estimates of the number of children who lose coverage due to non-payment of Medicaid premiums.

Mandates; Report – Section 17

The Legislative Council and the Joint Fiscal Office are directed to study requirements placed on school districts resulting from state and federal laws and regulations implemented since 1997. The examination

will quantify the effects on staffing, interagency cost shifts, and financial implications of the laws and regulations. The offices will consult with our associations and other educational stakeholders when conducting the study, and report to the House & Senate Committees on Education by December 1.

Financial Management of School Districts and Supervisory Unions – Section 18

The Commissioner of Education, in consultation with the VSA, VSBA and VASBO, will examine the systems of financial management school districts use, and the range of training and expertise held by school business officers. The Commissioner will develop proposals to ensure that all school districts use high quality financial management practices, and consider ways to integrate these systems, including the financial implications of his proposals. The Commissioner will also consider whether to consolidate business officers at the supervisory union level. A report is due on November 15 to the General Assembly.

Education Governance – Section 19

H.526 directs the Commissioner of Education to report to the Legislature on the findings from the ongoing public discussions of his *White Paper on Education Governance* issued in May of 2006. The report would outline the Commissioner's proposals for governance restructuring, if any. Additionally, the Commissioner must request that our associations and the Vermont-NEA submit recommendations for restructuring, if any, and he will include those recommendations in his report. The recommendations from the associations may be developed jointly or independently.

School Construction Aid – Section 20

When reviewing a preliminary application for approval of a school construction project, the Commissioner of Education must, under H.526, consider “regional educational opportunities and needs, including school building capacities across school district boundaries... economic efficiencies... and the strategic plan of the state board of education.” This provision was included in H.526 at the request of the Commissioner in order to give him more authority in the pre-approval stages of construction projects.

Special Education Extraordinary Reimbursement – Sections 21-22

Currently the State reimburses 90% of special education costs above \$50,000 for an individual student. H.526 removes the 10% local share from the district's calculation of excess spending. This section will be effective this year in order to be reflected in the excess spending penalties applied in FY09.

State-placed Students; 100% Reimbursement – Sections 23-24

A school district may, if it chooses to do so, claim 100% reimbursement from the Department of Education for all special education costs, including mainstream costs, for educating a state-placed student effective FY09. The district may also claim reimbursement for costs incurred while educating state-placed students who are not eligible for special education but who have “special needs” such as those that might be addressed through Section 504 plans.

Special Education; Best Practices – Sections 25-26

Based on legislative assumptions that collaboration does not already take place, the Commissioner of Education is required to encourage collaboration among school districts to share information regarding low incidence special education needs.

Section 26 reiterates the long-standing state policy that integrated special education services are recognized as an essential responsibility of the education system.

Rolling Reappraisal Study – Section 27

The Director of the Division of Property Valuation & Review in the Department of Taxes will “study the feasibility of adopting a statewide system of rolling reappraisals on a three- or five-year basis.” A rolling reappraisal system, combined with a reduced reliance on the common level of appraisal, may more accurately reflect property value for the purpose of taxation, and the House Ways & Means Committee initiated the inclusion of this study in H.526.

Small Schools Grants – Section 28

This section will allow recently consolidated schools to continue to receive Small School grants equal to the full amount the unconsolidated schools received in the prior year. Then, in the following two years, the consolidated schools will receive a diminishing grant.

Collective Bargaining at the Supervisory Union Level – Sections 29-41

The bill requires all school boards within a supervisory union to bargain jointly with all employee bargaining units in the supervisory union. Any negotiated agreement would be subject to a ratification vote by each member district board separately. Failure of a board to ratify would result in further negotiation between that board and its employees only. Separate provisions as to pay or any other conditions of employment for individual school districts within a supervisory union could be incorporated into the supervisory union-wide agreement.

Two types of school districts are exempt from this collective bargaining requirement. 1) School districts within a supervisory union that has more than one public high school. 2) School districts that maintain a school but do not offer grades 9 – 12, are not members of a union high school district, and are in a supervisory union that includes a K-12 district. The theory behind these exemptions is that they comprise examples of supervisory unions whose member districts do not have common concerns related to students or employees.

S.93 Miscellaneous Changes to Education Law

This annual bill, often referred to as the “technical corrections bill,” contains revisions to education law that are not considered major policy shifts. Many of the numerous provisions in this year’s bill have been suggested by the Department of Education. The bill has passed the Legislature and we expect the Governor to sign it into law.

- The Senate version had considered revising the **public bid law** as it applies to services, such as insurance, legal or architectural services, but this provision was not included in the final version of S.93. Current law remains, and professional services, including architectural and legal services, are not subject to the bidding requirements of 16 V.S.A. §559.
- The public bid law states that if the two competing contract bids are within one percent of each other, the board may award the contract to either bidder. S.93 clarifies that this 1% requirement applies to the bid amounts at the time of submission.
- Schools that receive tuitioning students are authorized by S.93 to enter into **tuition agreements with sending districts** above or below allowable tuition rates, so long as the receiving district offers the same arrangement to all sending districts. Individual sending districts will not be obligated to accept the arrangement and can pay the allowable amount.
- S.93 clarifies that **state transportation aid** for students traveling between schools and technical centers may also be used to support students traveling from a school to a technical center satellite location.
- S.93 clarifies that state **salary assistance for technical center assistant principals** is available only to centers that have a full-time equivalent enrollment of at least 150 students.

- Districts that are subject to the **excess spending threshold** will be allowed to expend up to \$5000 of the threshold penalty, once every five years, to hire budget consultants, to hire energy or facilities consultants, or to engage in reorganization or consolidation discussions with other districts.
- S.93 specifies that the Commissioner of Education must make the annual determination of how much per equalized pupil education spending constitutes “excess spending” by November 15.
- S.93 exempts any tuitioning school district with 20 or fewer students from the excess spending penalty in any year in which the penalty is “**solely attributable to new special education spending.**” No indication is given in the law as to how that determination is to be made.
- S.93 permanently allows the Commissioner of Education to continue to expend, at his discretion, up to two percent of special education funds to directly assist schools with unusual or unexpected special education costs.
- Beginning in the 2007-08 school year, S.93 will shift the **annual school enrollment census period** from the first 40 student days of school to a 20-day census, beginning on the 11th student day. This shift is being made to allow the Department of Education to report to school districts on their equalized pupil counts sooner. In turn, this would allow districts more time to plan their budgets. The amendment would also clarify that a state-placed student can be counted in a district’s average daily membership in each year following his or her enrollment.
- In conjunction with the previous provision, the Commissioner of Education would be directed to **report to districts on their initial equalized pupil count** by December 1, and to report the final count by December 15.
- S.93 also repeals the 20-day census, and reverts back to a **40-day census**, beginning with the 2009-10 school year. Presumably this provision will ensure that the length of the census period remains an ongoing legislative priority.
- The Department of Education is directed to develop a system for determining **school district membership count** based on samplings. The DOE must consult with the VSA, VSBA, and VASBO, and report to the Legislature by January 15, 2008. This provision is a necessary complement to H.526 in order to allow the DOE to administer the “cost-containment” provisions in that bill.
- The Department of Education is directed to analyze and recommend a process by which the state could offer **distance-learning** opportunities to all schools. The Department is directed to report to the General Assembly by next year, and include a fiscal analysis of the funding required to implement any recommendations.
- S.93 includes a one-year measure that would compel school districts with resident **pregnant and parenting pupils** to pay teen parent education programs for any educational services provided. The reimbursement would be between 75 and 85% of the base education payment for a full year of services, or a pro rata amount for teens attending less than one year. If a pregnant or parenting teen is enrolled in a school district other than his or her district of residence, the resident district will pay between 15 and 25% of the base education payment to the enrolling school for coordinating the pupil’s educational services. The Commissioner of Education will settle any disputes arising from this process. The Commissioner is directed to report to the House and Senate Education Committees regarding recommendations for future funding options in this area, as this provision will expire July 1, 2008. This is a modified extension of a provision in last year’s technical corrections bill.
- S.93 removes from the calculation of excess spending any **budget deficit** that results from a tuitioning district paying tuition on behalf of a student who moves into the district after the budget was passed, effective for school year 2007-08.
- S.93 extends a provision awarding **transition aid for consolidating school districts**, and moves up the date when the award would be granted. After voter approval of the establishment of a union or interstate school district, the Commissioner of Education will pay the consolidated school district either \$150,000, or 5% of the base education payment multiplied by the combined enrollment of the districts, whichever is less. This provision will sunset on June 30, 2010.

H.534 Prekindergarten

In the final two weeks of the session, the members of the House and Senate resolved their differences and approved a bill that will allow any school district providing or electing to begin an in-house pre-kindergarten program or to contract for pre-kindergarten services with a qualified provider, and to count at least some of the students in the district's average daily membership (ADM). State rules governing pre-kindergarten will be developed jointly the Commissioner of Education and the Commissioner of the Department of Children and Families, and adopted solely by the State Board of Education. The Governor will sign the bill on June 1st.

- “Early childhood education” is defined to mean services based on Vermont’s Early Learning Standards for three, four and five years olds who are not yet eligible for or enrolled in kindergarten.
- Rules, to be effective for the 2008-09 school year, shall be jointly developed and agreed to by the Commissioners of Education and the Department of Children and Families (DCF), and adopted by the State Board of Education as follows:
 - To ensure that a collaborative needs-assessment process in districts contemplating the establishment or expansion of an early education program occurs.
 - A process to ensure that a district will use “existing qualified service providers to the extent that existing qualified service providers have the capacity to meet the district’s needs effectively and efficiently.”
 - Ensure that opportunities are provided by school districts for effective parental participation in the pre-kindergarten program.
 - A process for parents or early education providers, located inside or outside a district, to petition a district to enter into an early education services contract with a provider.
 - To identify services for which State funds may be expended when pre-kindergarten children are counted for purposes of average daily membership (ADM).
 - To ensure that school districts receive reports on the costs of pre-kindergarten program from contracting providers, and to ensure that districts report these costs to the Commissioner of Education.
 - To ensure the reporting by school districts of identifiable costs for pre-kindergarten programs and essential early education programs in their annual budgets and reports to their communities.
 - To require school districts to report to both departments their annual pre-kindergarten spending, specifying all sources of funding.
 - To develop an appeals process for parents or providers to challenge the actions of school districts if they believe the district is violating statutes or rules.
 - To establish a process to document the progress of children enrolled in pre-kindergarten programs to be used by public and private providers in annual reports to the Commissioner of Education.
 - To establish quality standards that pre-kindergarten programs must meet in order to enroll students who will be included in a district’s ADM.
 - At a minimum, the standard for early education providers will be: 1) NAEYC accreditation, or 2) At least four stars in the DCF Stars system with at least two points in all five categories, or 3) Three stars with an approved plan to achieve four stars, and at least two points in all five categories, within three years.
 - A licensed center must have at least one licensed and endorsed early education teacher, and registered homes must have “regular and active supervision and training” from a licensed and endorsed early education teacher.
- The moratorium enacted last year that prohibited the State Board of Education from adopting rules regarding early childhood and pre-kindergarten education is repealed.
- Nothing in this act will require a school district to begin a pre-kindergarten program.
- DCF will continue to license all private and public pre-kindergarten programs.

- The respective jurisdictions and duties of the Department of Education and the DCF will be established as outlined in a 1999 Memorandum of Understanding between the departments.
- Both Commissioners must file a report to the Legislature by January 1, 2010 detailing to what extent districts are utilizing pre-kindergarten programs, their costs and effectiveness, and what effect the limit on the number of children which may be counted in a district's ADM has on the program.
- The legislatively established Pre-kindergarten Study Committee that met last summer and produced a report for this year's legislative session will continue to meet until March 1, 2008.
- Districts will have as many as four options when determining how to count pre-kindergarten students in their ADM. Each option limits the number of children who may be in an ADM count. Pre-kindergarten students who receive 10 or more hours weekly of early education are considered enrolled full-time and may be counted as .46 of an equalized pupil. Students receiving less than 10 hours count as a portion of an equalized pupil calculated by multiplying the number of weekly hours of instruction by .046. Students receiving less than 6 hours of instruction weekly may not be counted, unless they are receiving Essential Early Education (EEE) services. The district's options are:

1. Enrollment Limit Formula

EEE Students + (1 + 5-year average of the percentage increase/decrease of 1st grade enrollment)*(1st grade enrollment)

2. Flat Limit Formula

EEE Students + 10 students

3. Total Four Year Olds

EEE Students + total number of four year olds residing in the district. The burden of proving the number of four year olds would rest locally, not with the State.

4. Established Program Levels

A district that offered pre-kindergarten services in the 2006-07 school year has an additional option. This district may count the total number of enrolled pre-kindergarten children, as long that total does not exceed the number of children counted in the district's ADM in any one of the 2004-05, 2005-06, or 2006-07 school years. If in any year the district chooses to count pre-kindergarten students via one of the first three options, they may not return to the fourth option in subsequent years.

S.51 Prohibiting Discrimination on the Basis of Gender Identity

The Legislature has passed and the Governor has signed S.51, a bill prohibiting discrimination based on gender identity. As defined in the bill, gender identity means "an individual's actual or perceived gender identity, or gender-related characteristics intrinsically related to an individual's gender or gender-identity, regardless of the individual's assigned sex at birth." S.51 prohibits hiring and employment discrimination on the basis of gender identity.

S.51 also requires school districts to revise their policies on harassment, requiring them to specifically reference gender identity. The Commissioner of Education will provide districts with an updated model harassment policy by August 1, and districts will have two years from that date to amend their individual policies. The VSBA will be involved in the development of the model policy.

S.13 Bus Idling on School Grounds

The Legislature agreed this year on a bill intended to limit bus idling on school grounds. S.13 directs the State Board of Education (SBE) to adopt rules that generally limit idling, with necessary exceptions to ensure the

warmth and well being of the driver and passengers. The SBE must consult with the Agency of Natural Resources, the Department of Health, and the Department of Motor Vehicles in developing the regulations. By referring the details to the rule-making process, the legislation assures that there will be a statutorily required evaluation of the "...cost implications to local school districts and school taxpayers." The rules will be effective as soon as they are adopted. The rule-making process usually takes six to eight months to complete, and the bill was signed into law on May 25th.

S.13 also directs the Department of Education to make available to districts a model idling policy for vehicles other than school busses by January 1, 2008.

Act 35 - Enhancing Vermont's System of Care for Individuals with Autism Spectrum Disorders (S.121)

Act 35, formerly S.121 and signed into law this week, directs the Secretary of the Agency of Human Services (AHS) and the Commissioner of Education to jointly develop an interagency proposal for a life-long system of care to address autism spectrum disorders (ASD) in Vermont. The proposal would be consistent with the Vermont Interagency White Paper on ASD issued in March 2006, and developed "in collaboration with a broad spectrum of stakeholders."

The proposed plan would include an examination of the range of autism diagnoses and needs, current practices in care, model practices, and other considerations. The plan would then detail how existing resources might be redirected to support the system, and would facilitate collaboration among schools, state agencies, stakeholders and others in providing ASD services. The bill specifically requires the Agencies to consider whether the current funding arrangement between AHS and school districts is appropriate. The Agencies are to submit the plan in writing to the Governor and the Legislature.

Act 31 - A Statewide School Year Calendar (H. 15)

This session the legislature considered several different state-wide school calendar approaches. Among others, proposals were put forth to strengthen the current regional calendar system, and to require the Commissioner of Education develop and mandate a statewide calendar to be followed by all school districts. In the closing days of the session, the General Assembly agreed to a plan proposed by Sen. Don Collins and the Governor has signed the bill into law. Collins's statewide calendar will be created by a committee that will put forward a statewide school calendar to the State Board of Education (SBE) for approval.

The calendar committee will be chaired by the Commissioner of Education or his designee, and include two representatives each from the VSA, VPA, and VSBA, as well as the Vt-NEA, two technical center directors, two representatives of the Vermont Business Roundtable, and two high school students. The committee is directed to develop a uniform statewide calendar that includes the following:

- 175 common student days, during each of which **a majority of students in each grade must attend for a minimum of 5 ½ hours.**
- The first three student days must occur on the **Tuesday through Thursday before Labor Day.**
- Five **common assessment days**, at least one of which shall be organized by the Department of Education.
- Provisions for communities to petition the SBE to deviate from the calendar "due to **unique regional circumstances** that cannot otherwise be accommodated."
- A possibility that there be a sole vacation period between January 2 and April 30 to occur during Town Meeting week.

The committee must engage in a public process with the education and business communities, and other interested parties, in developing the calendar proposal, including at least five regional meetings. In addition,

technical center directors will be charged with convening a meeting of principals from the center's sending schools to develop regional recommendations for presentation to the calendar committee.

The calendar committee is also charged with recommending to the legislature an appropriate **financial penalty to be imposed on noncompliant districts**.

Beginning January 30, 2008, and annually thereafter, the calendar committee shall present its proposal for a uniform statewide school calendar to the State Board of Education. The SBE may approve or disapprove the calendar, but may not amend it. The SBE must announce its decision no later than March 31 annually. If the SBE does not approve the calendar in any year, a reversion to the regional calendar system for that year would apparently be required. Since the current regional calendar statute is not repealed by Act 31, there exists an immediate contradiction in the law that will have to be resolved at some point.

H.405 Capital Construction and State Bonding

The Governor has signed this annual bill authorizing construction aid.

State Aid for School Construction; Suspension – Section 36 & 38

As anticipated, the Capital Construction bill includes a moratorium on school construction aid. The Commissioner of Education is directed to not accept, review or act on any applications for state aid for school construction, unless a local electorate voted to approve the project prior to March 7, 2007. The moratorium will be in effect for an indefinite period of time, although the Legislature has directed the Commissioners of Education and Finance and Management to report on recommendations to, “develop a sustainable plan for state aid to school construction.”

The Commissioners are directed to report on options considered and specific recommendations, “to address the needs and pressures of school construction, including recommendations for a funding mechanism for state school construction aid and revisions to criteria for school construction project approval.” The report will also include a recommendation on whether technical center equipment should be paid for from the Education or General Fund. The report is due to the Legislature by January 1, 2008. If the Legislature does not enact a plan in the session next spring, the moratorium will be automatically renewed.

The only exceptions to the construction moratorium are first priority projects (emergency projects), projects necessary to ensure the health and safety of students and employees, and school consolidation projects.

State Aid for School Construction; Analysis – Section 37

The Legislative Joint Fiscal Office and Legislative Council are directed to analyze the current fiscal practices in awarding state aid for school construction. Among other considerations, the analysis must include the potential effects of lowering the 30% state-share of aid, the effects of 30-year bonding, an analysis as to whether performance contracting is cost effective, and whether the education fund might be an appropriate source of revenue for school construction projects.

Biomass Projects No Longer 2nd Priority – Section 33

Biomass heating projects will no longer be eligible to receive 2nd priority status for awarding state construction aid.

Appropriations

The capital bill appropriates \$9,567,598 for school construction in the next fiscal year, to be expended as follows.

- \$1.8 million for first priority emergency projects

- \$1 million for second priority projects, excluding biomass heating projects
- \$1.4 million for the purchase of biomass heating systems. The funds will be prorated among Mt. Abraham UHS, Burlington S.D., Mount Anthony UHS, and the Williamstown S.D.
- \$5.2 million for final school construction awards, prorated among the following:
 - Brattleboro UHS
 - Dresden S.D.
 - Williamstown S.D.
 - Rockingham S.D. (for Saxtons River Elementary School)
 - Rockingham S.D. (for Bellows Falls Central Elementary School)
 - Waterbury-Duxbury USD
- \$155,691 for the state share of energy performance contracts
- Due to a “waterfall” of additional state revenue unanticipated in initial budget projections, up to \$2 million additional revenue is available to the following:
 - \$400,000 for priority one projects
 - \$45,000 for performance contracting
 - 25% of the remainder for biomass projects listed above
 - 75% of the remainder for the final school construction awards listed above
- \$1 million for the construction of regional technical centers
 - \$48,610 for the Patricia Hannaford Career Center
 - The remainder for construction at the Windham Regional Career Center
- \$200,000 for the purchase of technical center program equipment
- \$20,000 for the Department of Education to reimburse districts for costs incurred installing wiring harnesses for emergency power generators
- \$22,521 to pay 25% of the cost for a roof at the Williamstown Elementary School

Additionally, \$50,000 is appropriated for the renovation of Holton Hall at the Austine School.

[H.537 The Appropriations Act](#)

Success Beyond Six Study – Section 123

Due to revenue constraints as a result of Vermont’s Global Commitment for Health Waiver, the Legislature has directed the Secretary of the Agency of Human Services and the Commissioner of Education to convene a summer study group to study and make recommendations regarding the future of the Success Beyond Six (SBS) funding mechanism.

The composition of the study committee is not named in the bill, but the group’s charge is to ensure that SBS expenditures “utilize best practices, yield positive outcomes, and are managed to a predictable rate of growth.” The committee is to develop recommendations regarding managing SBS in a capped environment, prioritizing expenditures within SBS, and decreasing administrative burden. A report is due to the Legislature, with a plan for implementation, by January 15, 2008.

Exception to Excess Spending – Section 169

Upon approval of the Commissioner of Education, the definition of excess spending will not include deficit repayment that arose solely from the unexpected cost of paying for additional personnel who were needed due to loss of life of school personnel on school grounds.

General Fund Transfer Appropriation – Section 184

The Education Fund will receive a \$280.2 million transfer from the General Fund.

In addition, the annual General Fund transfer shall grow each year at a rate set by an inflationary index. This is a change from prior practice, whereby the amount of the transfer was set by the Legislature, and had been intended to match the overall rate of growth in the General Fund. The new rate of growth will be the percent change from the prior year in the New England Economic Project's cumulative price index plus one-tenth of one percent. This is the same rate of growth that is used to annually calculate the Base Education Payment.

Funds for Teachers' Retirement System – Section 185

The State Teachers' Retirement System will be funded at actuarially recommended amounts for FY08 through the following sources:

- \$32.5 million is the amount of the annual contribution from the General Fund
- \$7 million of one-time money
- \$1.2 million of Medicare Part D reimbursement funds

Racially and Ethnically Diverse Teachers; Recruitment and Retention – Section 294

The Commissioner of Education is directed by the Appropriations bill to consult with the Vermont teacher diversity program and other parties "to develop strategies to increase recruitment and retention of racially and ethnically diverse teachers in Vermont public schools." The Commissioner must report on his findings to the Senate & House Committees on Education by January 15, 2008.

S.177 Child Poverty in Vermont

This bill will create the Vermont Child Poverty Council and charge it with developing a ten-year plan to reduce the number of children living in poverty by at least 50%. The Council will consist of six legislators or their designees, the Commissioners of the Department of Education, of the Department of Health, and of the Department of Children and Families, and one representative each from Voices for Vermont's Children, the Vermont Low Income Advocacy Council, Vermont Legal Aid, and the Vermont Superintendents Association. The Council will develop its plan after holding a public hearing in each county in Vermont, and a report will be due to the General Assembly by January 1, 2008. Each January thereafter a follow-up report will be required, until the ten-year plan is complete.

H.433 Workforce Development Programs and Internships

The Legislature has passed a wide-ranging bill relating to workforce development. H.433 establishes a grant program for workforce training and internships, funds the Job Start program, and increases the State commitment to post-secondary scholarships. The bill provides grant opportunities for technical centers, and appropriates funds to the State Colleges for dual enrollment programs. Last year, the Legislature appropriated \$5 million for the Next Generation Fund, and this year that money, plus an additional \$7 million, will be expended as directed by this bill.

The Vermont State Colleges are appropriated \$400,000 to fund dual enrollment programs. The bill does not provide guidance on the use of the funds, other than the following. The State Colleges are directed to develop a voucher program that would allow Vermont students to attend post-secondary programs other than at the State Colleges when, "programs at post secondary institutions other than the state college system ... are better academically or geographically suited to student need."

A Workforce Education and Training Fund (WETF) is created in the Department of Labor, to provide grants that either train Vermont workers or offer work-based learning internships with Vermont employers. The internships must be offered to students from Vermont public and private secondary institutions, and Vermont college students. The WETF is appropriated \$5.4 million, and the Workforce Development Council will develop grant award criteria.

Of that money, \$900,000 is dedicated to support out-of-school youth and youth at risk. This money will be appropriated to technical centers, comprehensive high schools, and eligible non-profits to develop programs that lead to employment or continued education for at-risk youth.

The Department of Labor is also authorized to spend \$6000 on up to two pilot programs that would result in a career-readiness certificate for graduates. The pilot programs would align with a technical center or workforce-training program, and would be based on, “a nationally validated work readiness assessment program.”

H.433 also appropriates \$5.7 million for scholarships. \$1 million is appropriated to the Vermont Student Assistance Corporation (VSAC) for Vermonters attending non-degree employment training programs. \$4.7 million is appropriated for scholarships to be divided between the University of Vermont, VSAC, and the Vermont State Colleges.

S.34 Alternatives to Dissection

S.34, which would require schools to provide alternative curricula to students who choose not to participate in dissection or vivisection, did not pass out of the House this session. The bill will remain in the House Education Committee, and may be acted on in the 2008 session. The bill enjoys significant support in the Senate, increasing the likelihood that it will be revisited next year.

END

ⁱ <http://www.burlingtonfreepress.com/apps/pbcs.dll/article?AID=2007705150312>