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As we indicated in last week’s Education Legislative Report, there is urgency in the Statehouse as lawmakers work towards an adjournment that could come as soon as April 27. There has been recent, significant movement on several major education bills and there is still time for surprising developments to emerge. With the session’s end in sight, lawmakers are focused on concluding their business; this means approving bills on the House and Senate floor, preparing for conference committees, and building support for potentially controversial issues.

A Secretary of Education and the Future of the State Board (H.440)

Last week, the Senate Education Committee amended and approved H.440 on a vote of 4-1. The bill will now be considered by the full Senate, and if approved, it will be brought back to the House for final approval. As of this writing, we anticipate that H.440 will be enacted this year.

The Senate Committee’s bill would establish a Secretary of Education appointed by the Governor beginning in 2013. The Governor would select the Secretary from a slate of no fewer than three candidates proposed by the State Board, and the appointment would be confirmed by the Senate. The Secretary would oversee and manage the Department of Education (which will be rebranded as an Agency) in addition to all the current duties now assigned to the Commissioner of Education. The Secretary would also sit on the State Board of Education as a non-voting, ex officio member. The Secretary would serve an indefinite term at the pleasure of the Governor.

The State Board of Education would retain its existing membership and structure (10 voting members, six-year nonrenewable terms). The mission of the State Board would be streamlined and emphasized with new statutory language. Freed of the responsibility to manage the Department of Education, the State Board would focus on education policy development for Vermont. The Board would be required to engage local school boards and the larger education community in policy development, and the Board would give priority consideration to education policy proposals presented by the Secretary or Governor. Annually, by September 1, the Secretary would present the administration’s educational proposals to the Board for consideration. The Board would be provided a small independent staff to carry out its mission.

The key concept in the amended bill is that the Governor (and his or her Secretary) becomes accountable for the execution of laws and policies established by the Legislature and the State Board. The State Board becomes accountable for establishing policy with involvement by the Governor and with participation from local boards and the broader education community.
As regular readers of our Statehouse reports know, our Associations have continually engaged with the Legislature on this issue, stating our preference for a strong, definitive role for the State Board. We believe this version of the bill delineates a critical, appropriate role for the Board, addressing our concerns.

A link to the Senate Education Committee’s version of H.440 is not available online as of this writing.

**Senate Actively Considering Omnibus Labor Bill (S.137)**

Last week, the Senate began consideration of S.137, a bill developed by the Senate Committee on Economic Development, Housing, and General Affairs. As we have reported, the bill took a delayed route to the Senate floor, but it was taken up by the Senate late on Friday morning. In a process that lasted perhaps 30 minutes, Senators heard a description of the bill and at least one Senator raised an objection to the unemployment insurance provision in the bill. Other Senators asked to have the omnibus bill divided into several independent pieces for consideration. At that time, without taking action on any part of the bill, the Senate adjourned for the weekend. The Senate will resume consideration of S.137 this week.

This bill would establish mandatory agency fees for non-union members of bargaining units, 12-month wage payment for any school employee, and summer unemployment benefits for non-instructional school employees such as bus drivers and cafeteria workers. For a full description of this bill, see our *Education Legislative Report of March 19*.

Our Associations have submitted written testimony to all lawmakers stating our objections to the three provisions described above. Agency fees and 12-month wage payments are subjects of collective bargaining that would be handed to the union with no commensurate benefit provided to school districts.

We urge local school officials with concerns regarding S.137 to contact their Senators to express your views. We also know that many school officials have already contacted their legislators on this bill and we thank you for your efforts. These contacts likely contributed to the skepticism that some Senators are now expressing regarding the merits of the bill. Contact information for Senators and Representatives can be found, organized by supervisory union, at this link: [http://www.vtvsba.org/legcontact.pdf](http://www.vtvsba.org/legcontact.pdf)

**Senate Delays Action on School Harassment Bill by One Week (H.412)**

Last week, the Senate delayed action on H.412, a bill pertaining to the legal standard by which educational institutions are held accountable in lawsuits alleging that a school failed to respond adequately to allegations of harassment, including peer-to-peer harassment. On Friday, the Senate agreed to end the delay and we anticipate that the issue will be considered this week.

Our Associations are concerned that the current draft of the bill would establish an untested legal standard for courts to consider when resolving harassment lawsuits. We believe this bill would increase
the frequency of suits as the judicial system attempts to define the parameters of the standard in H.412. These legal costs could sap resources that schools could otherwise use for educational purposes or to establish and prioritize clear internal protocols to prevent and address harassing and bullying behaviors among students.

We will continue to work with the Senate to see if together we can develop a bill that will satisfy our concerns as well as those of advocates for individuals who have experienced harassment in schools.

**House Committee Amending Public School Choice Bill (S.201)**

The House Education Committee has been considering S.201, a bill that would revise and expand Vermont’s public school choice law for districts that operate schools (commonly known as Act 150 choice). The bill, which has been approved by the Senate, would eliminate public school choice regions allowing students to apply for a transfer to any grade-appropriate public school in Vermont. It would also expand the choice program to include grades 7-8 statewide. The bill would also codify and clarify the limits a school board may choose to impose on the maximum number of children who may transfer from a given school.

The House Education Committee is developing an amendment to the bill. The most significant aspect of the amendment is that it would remove grades 7-8 from the statewide choice program, keeping the existing 9-12 grade structure. Our Associations have testified that grades 7-8 should not be part of S.201.

**Senate Committee Approves Miscellaneous Education Bill (H.771)**

The Senate Education Committee has approved a miscellaneous education bill, H.771. The bill, which has already been approved by the House, contains a mix of new requirements for schools and technical amendments to education law. Here is a brief description of each of its substantive provisions.

- The bill would require school boards to adopt bullying prevention policies by January 1, 2013. The policy must be at least as stringent as the Commissioner of Education’s model policy.

- The statutes requiring school boards to adopt hazing, harassment, and bullying prevention policies would be clarified and reorganized into a single provision of law (16 V.S.A. § 570).

- An advisory council would be formed to review and coordinate school and statewide activities related to the prevention of harassment, hazing and bullying. The council would be established by the Commissioner of Education and would include staff from our Associations, the Human Rights Commission, and the Vermont-NEA, and it may include other members selected by the Commissioner.

- H.771 would clarify that school districts and towns may loan money to each other interest free, if the loan is repaid within 90 days and if other terms of the loan are mutually agreeable.
• School-based prekindergarten programs may expand without conducting a community needs assessment if the school-based program would violate a federal law requiring the enrollment of a specific ratio of children with special needs to children without special needs.

• The membership of the Special Education Advisory Council would be expanded by two, from 17 to 19 members. The two new positions would be at-large members appointed by the Governor.

• The membership of the Prekindergarten-16 Council would be expanded by one. The new member would be selected by the Vermont Center for Afterschool Excellence.

• H.771 would clarify that residents of unorganized towns, grants, and gores may vote in technical center school district board elections and may serve on the district’s board.

• The bill would update and clarify what information is required to be reported on school district and supervisory union audits.

• H.771 includes the language of S.201 as it passed the Senate, a bill that would modify and expand public school choice in Vermont. We described S.201 and reported on its status on page 3 of this Report.

The bill is now under consideration in the Senate Appropriations Committee.

Quick Updates on Other Bills

Over the last few weeks, the bills described above have received the majority of our attention from a legislative advocacy perspective. Several other education-related bills are moving through the legislative process and are likely to be enacted this year.

• Both the Senate and the House continue to work on the funding for dual enrollment (S.233, H.776). The Senate bill provides no new funding for dual enrollment as of this writing. The House is examining several funding proposals and we will report on them in a future Report.

• The House Education Committee has amended and approved S.245, a bill that would expand the definition of comprehensive health education to include cardiopulmonary resuscitation (CPR) and automated external defibrillators (AEDs). The bill, which has already been approved by the Senate, will next be considered by the full House.

• A bill that would exempt law enforcement personnel working as school resource officers from State Board restraint and seclusion rules has been approved by the Senate and the House. We anticipate that the two chambers will resolve the modest differences between their respective versions of S.181 and grant final approval to the bill.

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