

Education Legislative Report

September 29, 2020 – Issue #11

As leaders of your school systems, you serve as a voice for public education. As your state associations, we work to strongly represent education officials' concerns. Yet, there is no substitute for contact by constituents with their legislators. We encourage you to read our Reports, keep abreast of issues, and stay in touch with your house members and senators. If you have questions regarding the content of this report, contact your Association's executive director or Sandra Cameron, Director of Public Policy at VSBA and author of the report at scameron@vtvsba.org.

2020 Legislative Session Concludes

The 2020 legislative session was anything but “regular.” The General Assembly had begun work on several important topics, including the Weighting Study, however COVID-19 resulted in a change in course on several fronts. The General Assembly worked through the end of June in order to respond to COVID-19 needs and to develop a quarter 1 budget. Lawmakers recessed until August 25th, at which time they returned for a special (extended) session.

The 2020 regular legislative session concluded on June 26, with the General Assembly passing the following education-related bills:

- H.959 (Act 122): Education Property Tax (Yield) Bill
- H.951 (Act 108): Municipal Emergency Statewide Education Property Tax Borrowing Program
- H.955 (Act 139): Capital Bill - PFAS in Drinking Water
- H.681 (Act 92): Temporary Elections and Open Meeting Law Provisions
- H.947 (Act 105): Temporary Municipal Tax Rate Provisions
- H.957 (Act 133) : Lead Testing
- S. 343 (Act 112): Act 173 Delay

The special session concluded after five weeks with finalization of the FY2021 budget bill, H.969.

Education Funding & Education Policy

H.969 - the Appropriations Bill, also referred to as the BIG Bill, was negotiated in conference committee and the Conference Report was approved by the House and Senate on September 25.

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The bill provides the budget for the State of Vermont for fiscal year 2021, including Coronavirus Relief Fund (CRF) appropriations for PreK-12 education as noted below:

- \$103 million to the Agency of Education for CRF-eligible prekindergarten–grade 12 public and approved independent school expenditures in fiscal years 2020 and 2021 through December 30, 2020;
- of the total \$103 million appropriation, \$1.2 million is allocated to independent schools and \$13.5 million is directed to Efficiency Vermont to support and fund school district work to improve air quality in schools by upgrading heating, ventilation, and air conditioning systems (HVAC). The remaining \$88.3 million is to reimburse school districts for COVID-19 costs through the Coronavirus Relief Fund LEA Grant Program being administered through the Vermont Agency of Education:
 - if the appropriated CARES Act funding proves to be insufficient to cover all reimbursement requests, any costs for new pandemic expenses shall be fully covered to the extent of appropriated funds. If proration is necessary, it shall be on requests from school districts of repurposed expenses that freed up previously budgeted funds in fiscal year 2021;
 - as used in this section, “school district” means a school district or a regional career technical center school district;
 - of these funds, up to \$4 million may be distributed by the AOE for the purchase of CARES Act eligible supplies and equipment, including vehicles, freezers, and other capital assets, necessary to provide meals to children using the federal child nutrition programs during the COVID-19 state of emergency. These funds are restricted to costs that exceed the federal per meal reimbursement received for meals provided through these programs.
- reimbursement of allowable transportation expenditures incurred by a school district or supervisory union for the transportation of food and other aid to students, families, and members of the community during the COVID-19 state of emergency, provided that if these expenditures were already reimbursed by federal or State funds, they shall not also be reimbursed under these sections.

H.969 also addresses the following education policy issues for the 2020-2021 school year only:

- establish a count for average daily membership (ADM) for each school district not less than the district’s 2019–20 school year ADM;
- authorization of school boards to utilize the Australian ballot system for any or all of its annual meeting and special meetings by vote of its school board (note: S.354 also covers this topic by stating “any municipality may apply the Australian ballot system to any or all of its municipal meetings held in the year 2021 by vote of its legislative body”);
- reduction to 170 student attendance days for 2020-2021 school year;
- waiver of the requirement for teachers to hold an endorsement for online teaching;
- expanded definition of “school district” to include a regional career technical center school district;
- sunset extension through July 2022 of a previous provision for a unified union school district to fill a vacancy until an election is held at an annual or special meeting;

- waiver allowing private PreK providers who held the status of prequalified prior to March 15, 2020 to retain that prequalified status despite the loss of licensed teacher; and
- creation of an Afterschool Task Force to make recommendations on the framework for, the costs of, and related long-term funding sources for access to universal afterschool programs, preferring solutions that do not draw upon the Education Fund.

Addressing Potential Education Fund Deficit in FY2021

Section E.111.1 of H.969 addresses the annual December 1 letter, which is a requirement of the Vermont Tax Commissioner to consult with the Agency of Education, the Secretary of Administration, and the Joint Fiscal Office when calculating and forecasting a property dollar equivalent yield, an income dollar equivalent yield, and a non-homestead tax.

In Act 122, the General Assembly expressed its intent to address any projected deficit in the Education Fund for fiscal year 2021 by using federal funds, applying reversions, drawing down the stabilization reserve, using other sources of revenue, reducing costs, borrowing, or using any other source of funding, including making appropriations from the General Fund or other funds. This provision in Act 122 was intended to relieve school boards of the responsibility for responding to a projected fiscal year 2021 deficit through school budgeting decisions for fiscal year 2022.

Section E.111.1 of H.969 applies the Legislature's intent in Act 122 by calling on the Tax Commissioner to disregard the projected deficit in the FY2021 Education Fund and to maintain the stabilization reserve at 5% when recommending the statewide education property tax rates.

Labor Relations

The Senate and House passed S.254, a bill which makes several changes to the unit determination, certification and representation processes of a union and gives employees who are members of the union the right to automatic dues deductions. The bill also provides unions with an opportunity to meet with new hires to discuss union membership and service, as well as provides unions with contact information for those new hires and requires employers to present unions with a list of employees in the bargaining unit and their contact information on at least an annual basis, to the extent that the employer is in possession of the contact information. This bill was approved by both the House and Senate on September 25.

Expanding Access to Contraceptives

H.663 passed in the Senate and the House on September 25. Section 4 of this bill would require school districts to make over-the-counter contraceptives (condoms) available free of charge to all students in grades 7-12 in locations that are safe and readily accessible to students, including the school nurse's office. The bill provides an exemption of mandated reporting solely on the basis of making condoms available to a secondary school student. The bill would also direct the Department of Health to coordinate with stakeholders to make free over-the-counter contraceptives available in a variety of settings statewide. This section of the bill would take effect on July 1, 2021.

Using Australian Ballot in 2021

S.354 addresses the requirement of voters of a municipality to vote to apply the provisions of the Australian ballot system to the annual or special meeting of the municipality by allowing any municipality to apply the Australian ballot system to any or all of its municipal meetings held in the year 2021 by vote of its legislative body. Further, S.354 removes the requirement of a person seeking to be named on a ballot as a candidate for a local election that is held at a 2021 municipal meeting to collect voter signatures.

The Secretary of State would have the authority to waive statutory deadlines or other statutory provisions, or provisions set forth in a school district's articles of agreement, related to a municipal election as necessary in order for a municipality to apply the Australian ballot system to its meeting. This waiver authority applies to statutory provisions set forth in a municipal charter or provisions set forth in a school district's articles of agreement if the waiver is requested by that municipality. This bill would take effect upon passage.

Uniform Licensing Standards

S.233 simplifies the process of obtaining a Vermont Professional Educator's license by directing the Standards Board for Professional Educators (VSBPE) to develop new rules to address applicants with three or more years of practice in good standing in another state and to prescribe a process to assess the equivalence of an applicant's professional credentials earned outside the United States. This bill also amends Section 6., 16 V.S.A. § 1694 by introducing a new pre-application criminal background determination that would allow potential applicants to know the outcome of the required criminal background checks for licensure, and to know whether the potential applicant would be eligible for a license based on the outcome of that check. The bill does not make amendments to current laws requiring criminal background checks for licensure or employment. S.233 was signed by the Governor on September 23 and takes effect on April 1, 2021.