

1 H.440

2 Introduced by Committee on Education

3 Date:

4 Subject: Education; secretary of education; agency of education; state board of
5 education

6 Statement of purpose: This bill proposes to transform the department of
7 education into an agency that is under the direction of a secretary on July 1,
8 2012. The bill would eliminate the position of commissioner of education and
9 create the position of secretary of education to perform the commissioner's
10 duties. The governor would appoint the secretary with the advice and consent
11 of the senate. The secretary would be a member of the governor's cabinet.

12 Over a period of several years, the bill would change membership on the state
13 board of education to be statutorily representative of both citizens at large and
14 persons with expertise in educational issues. The board would be directed to
15 engage with local communities, the education community, and state and local
16 policy-makers to help inform and develop a statewide vision for education.

17 Finally, the bill would direct the legislative council to prepare a draft bill for
18 presentation to the general assembly on or before January 1, 2012 that makes
19 technical statutory amendments and identifies all statutory sections that the
20 legislature must amend substantively to effect the intent of this act as of July 1,
21 2012.

1 ~~An act relating to creating an agency and secretary of education and~~
2 ~~amending the membership and purpose of the state board of education~~ *An*
3 *act relating to creating an agency and secretary of education and clarifying*
4 *the purpose of the state board*

5 It is hereby enacted by the General Assembly of the State of Vermont:

6 ~~Sec. 1. 3 V.S.A. chapter 49 is added to read:~~

7 CHAPTER 49. EDUCATION

8 § 2701. AGENCY AND SECRETARY CREATED

9 There is created an agency of education that shall be under the direction and
10 supervision of a secretary of education.

11 § 2702. SECRETARY OF EDUCATION

12 (a) The governor shall appoint a secretary of education with the advice and
13 consent of the senate.

14 (b) The secretary shall report directly to the governor and shall be a
15 member of the governor's cabinet.

16 (c) At the time of appointment, the secretary shall have demonstrated:

17 (1) leadership abilities; and

18 (2) expertise in the management of public education and in the creation
19 and implementation of education policy.

20 § 2703. DEPUTY SECRETARIES

21 The secretary, with the approval of the governor, may appoint one or more
22 deputy secretaries to serve at the secretary's pleasure and to perform such
23 duties as the secretary prescribes. Any deputy secretary appointed shall be

1 ~~exempt from the classified service. The appointment shall be in writing and~~
2 ~~recorded in the office of the secretary of state.~~

3 Sec. 2. 16 V.S.A. § 161 is amended to read:

4 § 161. STATE BOARD OF EDUCATION; APPOINTMENT OF
5 MEMBERS; TERM; VACANCY

6 ~~(a) The state board shall consist of ten members. Two of the members~~
7 ~~shall be secondary students, one of whom shall be a full member and the other~~
8 ~~of whom shall be a junior member who may not vote. All members shall be~~
9 ~~appointed by the governor with the advice and consent of the senate. In~~
10 ~~appointment of the nonstudent members consideration shall be given to the~~
11 ~~selection of such persons as shall adequately represent all sections of the state.~~

12 A state board of education is created within the agency of education that shall
13 have 11 voting members and one nonvoting member. The governor shall
14 select and appoint all members with the advice and consent of the senate. The
15 board shall consist of:

16 (1) five at-large members;

17 (2) one member selected from among three candidates proposed by the
18 Vermont Superintendents Association, provided that the candidates do not
19 need to be current or former members of that entity;

1 ~~(3) one member selected from among three candidates proposed by the~~
2 Vermont School Boards Association, provided that the candidates do not need
3 to be current or former members of that entity;

4 ~~(4) one member selected from among three candidates proposed by the~~
5 Vermont Principals' Association, provided that the candidates do not need to
6 be current or former members of that entity;

7 ~~(5) one member selected from among three candidates proposed by the~~
8 Vermont-NEA, provided that the candidates do not need to be current or
9 former members of that entity;

10 ~~(6) one member selected from among three candidates proposed by the~~
11 Vermont Business Roundtable, provided that the candidates do not need to be
12 current or former members of that entity;

13 ~~(7) two secondary students, one of whom shall be a full member and the~~
14 other of whom shall be a junior member who may not vote.

15 ~~(b) To the extent possible, the members shall represent geographically~~
16 diverse areas of the state.

17 ~~(c)~~ (c) Upon the expiration of the respective terms of those members of the
18 board previously appointed, excluding the student members, the governor
19 shall, biennially in the month of February with the advice and consent of the
20 senate, appoint members ~~thereto~~ for terms of ~~six~~ three years. The terms shall
21 begin March 1 of the year in which the appointments are made. A member

1 ~~...serving a term of six years shall not be eligible for reappointment for~~
2 ~~successive terms may be reappointed.~~

3 ~~(2)(d)~~ In the event of any vacancy occurring in the membership of the
4 board, the governor shall fill the vacancy with a qualified person, as set forth in
5 subsection (a) of this section, whose appointment shall be for the unexpired
6 portion of the term.

7 ~~(3)(e)~~ Biennially, the board shall choose a member of the board to be its
8 chair.

9 ~~(4)(f)~~ Annually, using an application process that is open and accessible to
10 all eligible students, the governor shall appoint a Vermont secondary school
11 student who will continue to be a secondary student for at least two years
12 following taking office, to serve on the state board for two years, beginning on
13 July 1 of the year of appointment. The student member shall not vote during
14 the first year and shall be a full and voting member during the second year of
15 his or her term.

16 Sec. 3. 16 V.S.A. § 164 is amended to read:

17 § 164. STATE BOARD, GENERAL POWERS AND DUTIES

18 ~~The state board shall have supervision over, and management of the~~
19 ~~department of education and the public school system, except as otherwise~~
20 ~~provided; and shall~~ The state board shall engage with local communities, the
21 education community, and state and local policy-makers to help inform and

1 ~~develop a statewide vision for education. In addition to other specified duties,~~

2 the board shall:

3 * * *

4 Sec. 4. REPEAL

5 16 V.S.A. § 211 (appointment of commissioner by board of education;
6 commissioner's reports to board) is repealed.

7 * * * Transition * * *

8 Sec. 5. STATE BOARD OF EDUCATION; MEMBERSHIP

9 (a) As provided in this section and notwithstanding the provisions of
10 16 V.S.A. § 161, the number of members serving on the state board of
11 education may exceed the number permitted in section 161.

12 (b) On or before September 1, 2011, each of the entities identified in
13 Sec. 2, of this act, 16 V.S.A. § 161(a)(2) through (6) shall propose the names
14 of three candidates for state board of education membership to the governor.

15 (c) On or before February 28, 2012, the governor shall appoint, with the
16 advice and consent of the senate, one new state board of education member
17 from each of the five groups of candidates proposed pursuant to subsection (b)
18 of this section.

19 (d) The term of each state board of education member appointed pursuant
20 to subsection (c) of this section shall begin on March 1, 2012. The governor
21 shall make the initial appointments as follows: the members appointed

1 ~~pursuant to Sec. 2, 16 V.S.A. § 161(a)(2) and (3) shall be appointed to~~
2 ~~one-year terms; the members appointed pursuant to Sec. 2, 16 V.S.A.~~
3 ~~§ 161(a)(4) and (5) shall be appointed to two-year terms, and the member~~
4 ~~appointed pursuant to Sec. 2, 16 V.S.A. § 161(a)(6) shall be appointed to a~~
5 ~~three-year term. As these initial terms expire, the governor shall appoint new~~
6 ~~members, selected from among three candidates proposed by the appropriate~~
7 ~~entity, to fill three-year terms. If a vacancy occurs in one of the positions, the~~
8 ~~governor shall appoint a new member, selected from among three candidates~~
9 ~~proposed by the appropriate entity, for the unexpired portion of the term.~~

10 ~~(e) Except as provided in subsections (c) and (d) of this section, the~~
11 ~~governor shall not appoint a new state board of education member upon the~~
12 ~~expiration of the six-year term of any nonstudent member who is a member on~~
13 ~~or before February 28, 2012 or for any other vacancy occurring before March~~
14 ~~1, 2012 until appointment of a new at-large member pursuant to Sec. 2, 16~~
15 ~~V.S.A. § 161(a)(1) results in a board with no more than 11 voting members.~~

16 Sec. 6. AGENCY OF EDUCATION; SECRETARY OF EDUCATION;

17 POWERS AND DUTIES

18 On July 1, 2012:

19 (1) the secretary of education shall assume all the powers, duties, rights,
20 and responsibilities of the commissioner of education; and

1 ~~(2) the agency of education shall assume all the powers, duties, rights,~~
2 ~~and responsibilities of the department of education.~~

3 Sec. 7. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

4 On or before January 1, 2012, the legislative council shall prepare and
5 submit a draft bill to the house and senate committees on education that makes
6 statutory amendments of a technical nature and identifies all statutory sections
7 that the general assembly must amend substantively to effect the intent of this
8 act as of July 1, 2012.

9 Sec. 8. EFFECTIVE DATES

10 (a) This section and Secs. 5, 6, and 7 (transitional provisions) of this act
11 shall take effect on passage.

12 (b) Secs. 1 through 4 of this act shall take effect on July 1, 2012.

Sec. 1. 3 V.S.A. chapter 49 is added to read.

CHAPTER 49. EDUCATION

§ 2701. AGENCY AND SECRETARY CREATED

There is created an agency of education that shall be under the direction
and supervision of a secretary of education.

§ 2702. SECRETARY OF EDUCATION

(a) With the advice and consent of the senate, the governor shall appoint a
secretary of education from among no fewer than three candidates proposed

~~by the state board of education. The secretary shall serve at the pleasure of
the governor.~~

~~(b) The secretary shall report directly to the governor and shall be a
member of the governor's cabinet.~~

~~(c) At the time of appointment, the secretary shall have expertise in public
education management and policy and demonstrated leadership and
management abilities.~~

~~Sec. 2. 16 V.S.A. § 161 is amended to read:~~

~~§ 161. STATE BOARD OF EDUCATION; APPOINTMENT OF MEMBERS;
TERM; VACANCY~~

~~The state board shall consist of ten members. Two of the members shall be
secondary students, one of whom shall be a full member and the other of whom
shall be a junior member who may not vote. All members shall be appointed
by the governor with the advice and consent of the senate. In the appointment
of the nonstudent members ~~consideration,~~ priority shall be given to the
selection of ~~such persons as shall adequately represent all sections of the state~~
with a demonstrated commitment to ~~public education~~ ensuring quality
education for Vermont students. To the extent possible, the members shall
represent geographically diverse areas of the state.~~

~~(1) Upon the expiration of the respective terms of those members of the
board previously appointed, excluding the student members, the governor~~

~~shall, biennially in the month of February with the advice and consent of the
senate, appoint members ~~thereto~~ for terms of ~~six~~ three years. The terms shall
begin March 1 of the year in which the appointments are made. A member
serving a term of six years shall not be eligible for reappointment for
successive terms. A nonstudent member is eligible for reappointment provided
that the total number of years to be served will not exceed nine years.~~

* * *

~~Sec. 3. 16 V.S.A. § 164 is amended to read:~~

~~§ 164. STATE BOARD, GENERAL POWERS AND DUTIES~~

~~The state board shall have supervision over, and management of the
department of education and the public school system, except as otherwise
provided; and shall review and evaluate education policy presented by the
governor and secretary, establish policies to guide the work of the agency, and
engage local school board members and the broader education community. In
addition to other specified duties, the board shall:~~

* * *

~~(4) Biennially or as required by the governor cause to be prepared a
budget for all money to be expended by the department of education. Guide
preparation of and submit an agency budget to the governor.~~

* * *

~~(10) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices which improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment.~~
~~[Repealed.]~~

~~* * *~~

~~(19) Develop, in consultation with the secretary of state, and make available to school boards, sample ballot language for items which may be voted on by Australian ballot and for which no statutory language exists.~~
~~[Repealed.]~~

~~* * *~~

~~(21) Report annually to the governor and the general assembly on the progress the board has made in establishing policies to guide the work of the agency and engaging the citizens of Vermont.~~

~~(22) Work with the secretary and agency to ensure that a new member of the board receives orientation within 60 days of appointment regarding essential elements of Vermont's education system, including an overview of education funding; school quality standards; the prekindergarten-16 continuum; the structure of education delivery, including the role of local boards and locally appointed administrators; student performance on~~

~~standardized assessments; and policies governing the agency, including indicators to monitor progress and ensure accountability.~~

~~Sec. 4. 16 V.S.A. § 212(18) and (19) are added to read:~~

~~(18) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices that improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment.~~

~~(19) Develop, in consultation with the secretary of state, and make available to school boards sample ballot language for issues that may be decided by Australian ballot and for which no statutory language exists.~~

~~Sec. 5. REPEAL~~

~~16 V.S.A. § 211 (appointment of commissioner by board of education; commissioner's reports to board) is repealed.~~

~~*** Transition ***~~

~~Sec. 6. STATE BOARD OF EDUCATION; MEMBERSHIP; APPOINTMENT~~

~~(a) Notwithstanding the provisions of 16 V.S.A. § 161 as amended by Sec. 2 of this act, the term of any nonstudent member of the state board of education who was appointed and is a member before March 1, 2013 shall expire at the end of the original six-year term to which the member was appointed.~~

~~(b) The governor shall appoint new members pursuant to the terms of 16 V.S.A. § 161 as amended by this act upon the expiration of a term or a vacancy occurring on or after March 1, 2013.~~

Sec. 7. AGENCY OF EDUCATION; SECRETARY OF EDUCATION;

POWERS AND DUTIES

On March 1, 2013:

(1) the secretary of education shall assume all the powers, duties, rights, and responsibilities of the commissioner of education; and

(2) the agency of education shall assume all the powers, duties, rights, and responsibilities of the department of education.

Sec. 8. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

On or before January 15, 2013, the legislative council shall prepare and submit a draft bill to the house and senate committees on education that makes statutory amendments of a technical nature and identifies all statutory sections that the general assembly must amend substantively to effect the intent of this act.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 6 through 8 (transitional provisions) of this act shall take effect on passage.

(b) Secs. 1–5 of this act shall take effect on February 1, 2013.

Sec. 1. 3 V.S.A. chapter 49 is added to read:

CHAPTER 49. EDUCATION

§ 2701. AGENCY AND SECRETARY CREATED

There is created an agency of education that shall be under the direction and supervision of a secretary of education.

§ 2702. SECRETARY OF EDUCATION

(a) With the advice and consent of the senate, the governor shall appoint a secretary of education from among no fewer than three candidates proposed by the state board of education. The secretary shall serve at the pleasure of the governor.

(b) The secretary shall report directly to the governor and shall be a member of the governor's cabinet.

(c) At the time of appointment, the secretary shall have expertise in education management and policy and demonstrated leadership and management abilities.

Sec. 2. 16 V.S.A. § 161 is amended to read:

§ 161. STATE BOARD OF EDUCATION; APPOINTMENT OF MEMBERS; TERM; VACANCY

The state board shall consist of ten members. Two of the members shall be secondary students, one of whom shall be a full member and the other of whom shall be a junior member who may not vote. All members shall be appointed by the governor with the advice and consent of the senate. In the appointment

of the nonstudent members ~~consideration, priority~~ shall be given to the selection of such persons ~~as shall adequately represent all sections of the state with a demonstrated commitment to ensuring quality education for Vermont students. To the extent possible, the members shall represent geographically diverse areas of the state. The secretary shall serve on the state board as a nonvoting member.~~

* * *

Sec. 3. 16 V.S.A. § 163 is amended to read:

§ 163. ~~OFFICE STAFF; MEETINGS~~

(a) ~~The office of the board shall be the office of the commissioner of education~~ The board shall be supported by adequate staff, who shall report to the board.

(b) The board shall meet monthly and shall hold special meetings as required for the performance of its duties. The times and places for regular and special meetings shall be designated by the ~~chairman~~ chair of the board. The ~~chairman~~ chair shall call a special meeting upon the written request of any two members.

Sec. 4. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD, GENERAL POWERS AND DUTIES

The state board shall ~~have supervision over, and management of the department of education and the public school system, except as otherwise~~

~~provided; and shall~~ evaluate education policy proposals, including timely evaluation of policies presented by the governor and secretary; engage local school board members and the broader education community; and establish and advance education policy for the state of Vermont. In addition to other specified duties, the board shall:

* * *

~~(4) Biennially or as required by the governor cause to be prepared a budget for all money to be expended by the department of education~~ Review and comment on an agency budget prepared by the secretary for the governor.

* * *

~~(10) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices which improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment.~~
[Repealed.]

* * *

~~(19) Develop, in consultation with the secretary of state, and make available to school boards, sample ballot language for items which may be voted on by Australian ballot and for which no statutory language exists.~~
[Repealed.]

* * *

(21) Report annually to the governor and the general assembly on the progress the board has made on the development of education policy for the state.

Sec. 5. 16 V.S.A. § 212(18), (19), (20), and (21) are added to read:

(18) Establish an information clearinghouse and accessible database to help districts share information about educational programs and practices that improve student performance. Educational programs and practices include those designed to create and sustain a safe learning environment.

(19) Develop, in consultation with the secretary of state, and make available to school boards sample ballot language for issues that may be decided by Australian ballot and for which no statutory language exists.

(20) Prepare a budget for the agency and submit it to the governor after review by the state board.

(21) Annually, prior to September 1, present the governor's education policy priorities to the state board.

Sec. 6. REPEAL

16 V.S.A. § 211 (appointment of commissioner by board of education; commissioner's reports to board) is repealed.

* * * Transition * * *

*Sec. 7. AGENCY OF EDUCATION; SECRETARY OF EDUCATION;
POWERS AND DUTIES*

On January 1, 2013:

(1) the secretary of education shall assume all the powers, duties, rights, and responsibilities of the commissioner of education; provided, however, that if a secretary appointed by the governor has not assumed office by January 1, 2013, then the commissioner or acting commissioner of the department on that date shall continue to perform the duties until the day on which the secretary assumes office; and

(2) the agency of education shall assume all the powers, duties, rights, and responsibilities of the department of education.

Sec. 8. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

On or before January 15, 2013, the legislative council shall prepare and submit a draft bill to the house and senate committees on education that makes statutory amendments of a technical nature and identifies all statutory sections that the general assembly must amend substantively to effect the intent of this act.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 7 (assumption of powers and duties) and 8 (legislative council) of this act shall take effect on passage.

(b) Secs. 1 (creation of agency), 2 (secretary as nonvoting member of board), and 6 (repeal of board's power to appoint commissioner) of this act shall take effect on January 1, 2013.

(c) Secs. 3 (board staff), 4 (board duties), and 5 (secretary's duties) of this act shall take effect on April 1, 2013.