VERMONT
SCHOOL BOARDS ASSOCIATION
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To: Senate Finance Committee
Re: H.853
From: Nicole Mace, Executive Director
Date: April 27, 2016

Thank you for the opportunity to testify regarding H.853. I have four issues I would like to address in my testimony.

Excess Spending Penalties – In 2013, the General Assembly anchored the excess spending penalty to FY 2014 spending levels, inflated by the NEEP Index for Government Goods and Services. In addition, it lowered the threshold from 125% of statewide average spending to 123%, and then to 121%, which was supposed to apply to FY 2017 budgets. However, the Allowable Growth Threshold provision of Act 46 meant that that change to 121% will not be applied until FY 2018. Estimates produced by JFO during the AGR debate suggested that if that provision were repealed and the underlying excess spending penalties (at 121% of statewide average spending) were in effect, 24 districts would have exceeded the threshold. It is difficult to predict how many would in fact have exceeded the threshold, since it is an effective cost containment mechanism that boards work hard to avoid.

We strongly oppose any additional cost containment policies being applied during the merger implementation phase of Act 46. School district officials are leading important and challenging conversations in communities across Vermont about how to adjust governing and operating structures to ensure greater equity, quality, and cost-effectiveness. Since the law passed last year, over 50 communities have voted to unify their school districts in order to accomplish these goals. Adding new cost containment requirements before districts have been able to unify would be an unnecessary distraction and could lead to outcomes that are in direct conflict with the goals of Act 46.

The General Assembly has signaled the importance of cost effectiveness through its enactment of Act 46. However, if the General Assembly believes that additional efforts to address costs are necessary, then reducing the excess spending threshold in FY 2020 may make some sense. We urge this body to conduct a careful analysis of the exemptions to that calculation, the index that is used to inflate the threshold, as

well as the impacts that anchoring and lowering the threshold have had on impacted districts well before FY 2020.

Use of $18.8M surplus - Local districts relied on substantial amounts of fund balance in their FY 2017 budgets in order to stay below their allowable growth thresholds. We believe that the amount of surplus funds used at the local level could approach $17 million. If the state uses the entire $18.8 million in surplus funds to inflate the yield and districts used surplus funds to stay below their threshold targets, then over $35 million in one-time funds will have been used to cover operating expenses that will need to be made up next year.

Transfer of debt/assets – The original language of what is now Section 3 of the bill would have allowed a study committee report developed pursuant to 16 VSA 706b to include terms for transferring the ownership of capital assets, and the liability for any associated debt, from the merging school districts to the towns where the assets are located. The original language contemplated the new merged district leasing the capital assets from the towns.

We opposed the original language of the bill that would have transferred assets to the town, because it undermines the ability of a unified district to maximize assets such as school buildings for the purpose of fulfilling its educational mission.

In the event the new district wishes to modify or improve existing school facilities, it would need to obtain the permission of the town in which the asset is located in order to do so. It also raises questions about the long-term investments that will need to be made in properties that are used by the district. How does one operate a district long term with leased school facilities from a landlord who has no underlying investment in the property? Why would the remaining towns/voters ever vote to incur debt for such a facility?

While we understand that this may appear to create additional space for local Act 46 conversations, we think this approach could create some unintended consequences that could lead to greater divisiveness regarding real property issues and discourage mergers. It is entirely unclear why and on what terms a town would agree to take on the debt of a school district, when the assets will not be transferred as well.

16 VSA 706b already provides the opportunity for study committees to discuss whether and to what extent assets and liabilities will be acquired by the newly formed district. Most study committee reports transfer all assets and liabilities to

the new district, and include a provision that requires a unified district to transfer any assets back to the town for $1 in the event the unified district decides not to use the facility for educational purposes.

Rulemaking for study committee reports – The process for merging districts under Act 46 is the same process that has been used for over 50 years. Based on my observations of the study committee process so far, I do not believe that there are any issues the Agency of Education should address through rulemaking. There is a very clear process for approving, adopting and amending the articles of agreement, and in the event that they do not adequately address an issue, there are multiple layers of oversight at both the front and back end to correct a problem.

The Agency of Education is performing well in providing technical support to school districts and study committees as they develop their articles of agreement. That work should continue to be the focus of the Agency, rather than a protracted rulemaking process. Furthermore, I am concerned that this would slow work that is currently underway in committees around the state, and require the AOE to both predict what issues might arise and how they should be resolved.