

H.361 – Education Funding, Education Spending, and Education Governance
Report of the Committee of Conference
Section by Section Summary
(5/14/15) – **DRAFT!**

***** Findings; Goals; Intent *****

Sec. 1. Findings *[see separate one-page list of data]*

Sec. 2. Goals *[combination of House and Senate language]*

This legislation is intended to move the State toward sustainable models of education governance. It is designed to encourage and support local decisions and actions that:

- provide substantial equity in the quality and variety of educational opportunities
- lead students to meet or exceed the State’s Education Quality Standards
- maximize operational efficiencies through greater flexibility to manage, share, and transfer resources
- promote transparency and accountability
- are delivered at a cost that parents, voters, and taxpayers value

Sec. 3. School Closure; Small Schools; Intent *[Senate]*

It is not the State’s intent to close schools, including small schools. Nothing in the act requires school closure. The intent is to provide small schools the opportunity to enjoy the expanded educational opportunities and economies of scale that are available in a larger, more flexible governance models.

Sec. 4. Tuition Payment; School Operation; Protections; Intent *[House and Senate]*

The section provides total protection for districts that pay tuition for their students, districts that operate schools, and districts that do some of both. They can continue to do whatever they choose to do.

***** Governance Structures To Achieve Education Policy Goals *****

Sec. 5. Preferred Education Governance Structure; Alternative Structure
[combination of House and Senate language]

On or before July 1, 2019 the State shall provide educational opportunities through sustainable governance structures designed to meet the goals in Sec. 2

The opportunities will be provided pursuant to one of the following two models:

Education District (the preferred structure):

- The preferred educational governance structure is a single school district that:
 - is responsible for education of all resident PreK-12 students
 - is its own supervisory district (SD)
 - has a minimum average daily membership (ADM) of 900
 - assumes one of 4 most common structures:
 - (1) operates PK/K-12
 - (2) operates PK/K-8; tuitions 9-12
 - (3) operates PK/K-6; tuitions 7-12
 - (4) tuitions PK/K-12

Supervisory Union (alternative structure):

- The preferred structure is not necessarily possible or the best means of achieving VT's education goals in all regions of the State – so...
 - an SU composed of multiple member districts, each with its own board, can also meet the stated goals
 - particularly if:
 - (1) the member districts consider themselves collectively responsible for the education of all resident PK-12 students in the SU
 - (2) the SU maximizes efficiencies, economies of scale, flexibility, etc.
 - (3) the SU has the smallest number of member school districts practicable
 - (4) the combined ADM of all member districts is at least 1,100

Sec. 6. Accelerated Activity; Supervisory Union Becoming a Supervisory District; Enhanced Tax Incentives; Small School Support; Data and Report
[Senate language with amendments]

- (a) Accelerated Activity. A newly merged district will receive enhanced tax incentives if:
- an existing SU becomes an SD by merging into a unified union school district (and, in addition, could also merge with a neighboring supervisory district)
 - there is a positive electorate vote after June 30, 2015 and before July 1, 2016
 - the new district:
 - is responsible for the education of all resident PK-12 students
 - is its own SD
 - has a minimum ADM of 900
 - operates under one of three common governance structures listed in Sec. 5
 - demonstrates its ability to meet the goals established in Sec. 2
 - is operational on or before July 1, 2017
 - provides data at Secretary's request and otherwise assists the Secretary to evaluate the merger

(b) Enhanced Incentives. Subsection (b) provides three incentives for the accelerated activity in subsection (a).

- Homestead tax rate reduction: A newly merged districts will receive ta homestead tax rate reduction of \$0.10 / 0.08 / 0.06 / 0.04 / 0.02 in the first five years of operation. *[This is more favorable than the incentive available to regional education districts (four years beginning at \$0.08)]*
- Merger Support Grant: Under current law, Small Schools Grants are based on the size of a district, not on the size of a school – so, under current law, a district that receives a Small Schools Grant might become ineligible if it merges into a larger governance structure. This bill would convert the FY16 Small Schools Grant into a Merger Support Grant. The State would pay the Merger Support Grant annually unless and until a merged district closed the small school. If closure of the school is connected with the consolidation of schools into a new building or into an existing building that needs renovation, however, then the grant is paid until the bonded indebtedness is retired. *[Currently, regional education districts receive Merger Support Grants for 5 years, but Sec. 15 amends that grant to have the same terms described here]*
- Transition Facilitation Grant: In the first year of operation, the new district receives the lesser of:
 - \$150,000
 - 5% Base Ed Amount multiplied by ADM*[This incentive is also available to regional education districts]*

The Secretary collects and analyzes data from these newly merged districts; and then reports to legislative committees annually through 2021.

Sec. 7. School Districts Created After Deadline for Accelerated Activity; Tax Incentives; Small School Support; Joint Contract Schools
[combination of House and Senate language]

Section 7 provides a lower level of incentives to newly merged districts that become operational at a later date than required for the enhanced incentives available for accelerated activity. These incentives are available to a union school district formed by districts pursuant to the same criteria as those formed under Sec. 6 and become operational at any point after July 1, 2017 and before July 1, 2019. The merging districts do not need to be contiguous or from the same supervisory union.

The incentives available to these districts are:

- A homestead tax rate reduction of \$0.08 / 0.06 / 0.04 / 0.02 in the first four years of operation *[the same amounts that are currently available to regional education districts]*
- Merger Support Grants paid annually in the amount of a formerly received Small School Grants unless and until the small school is closed (and for life of bond if consolidation)

Sec. 8. Evaluation by the State Board of Education [*House language with amendments*]

Subsection (a) requires that when the State Board of Education reviews a proposal to form a union school district, whether the preferred Education District under this act or otherwise, the State Board must consider whether the proposal is designed to create an sustainable governance structure that can meet the goals in Section 2.

In addition, the State Board must be mindful of districts that might be isolated if they are not included in the proposal, including those that might be socioeconomically isolated. The State Board may direct the Secretary to work with the districts to achieve a proposal that meets the requirements without isolating a district. The subsection authorizes, but does not require, the State Board to withhold approval from a proposal that isolates a district.

Subsection (b) requires that the State Board may approve a proposal to create, expand, or continue a supervisory union with member districts, each of which has its own board, only if:

- the proposal is the best means of meeting the goals in Section 2 within the specific region
AND
- the proposal ensures transparency and accountability, including in relation to the SU's budget

Sec. 9. Self-Evaluation, Meetings, and Proposal [*Senate language with amendments*]

On or before November 30, 2017: If a district is not organized in the preferred governance structure of an Education District pursuant to Sec. 5(b) and will not be in that structure by July 1, 2019, then it must take the following actions:

- Self-evaluation: The district's school board evaluates its current ability to meet the goals established in Section 2.
- Meetings: The district's school board meets with other school boards, including those representing districts with similar operational and tuition-paying patterns, to discuss ways to promote improvement in connection with the Section 2 goals throughout the region. Districts do not need to be contiguous or in the same SU.
- Proposal: The district submits a proposal to the Secretary and State Board of Ed either on its own or in conjunction with other districts.
 - The district proposes to retain its current governance structure OR to form a different structure with other district(s) OR otherwise to act jointly (e.g., by contract)
 - The district demonstrates how this proposal meets or exceeds the Section 2 goals.
 - The district identifies actions to improve its ability to meet the goals.

Sec. 10. Transition to Sustainable Governance Structures; Proposal; Final Plan
[combination of House and Senate]

(a) Secretary's Proposal. Section 10 requires the Secretary of Education to review governance structures of school districts and SUs statewide as they will be, or are anticipated to be, on July 1, 2019. She also reviews proposals submitted pursuant to Section 9 and talks with those and other districts.

By June 1, 2018, the Secretary publishes and submits to the State Board a proposal that, *to the extent necessary* to meet the goals of Section 2, would move districts into the more sustainable, preferred governance structure of an Education District as described in Sec. 5(b).

Section 10 recognizes that it may not be possible or practicable to move districts into an Education District – for example, because of the Section 4 protections for tuition paying and operating districts. In those situations, the proposal may include alternative governance structures as necessary, including an SU with member districts or an Education District with a smaller ADM as long as the proposed alternative structures are designed to move the State toward sustainable models of education governance that meet the Section 2 goals and that continue to protect choice of district to pay tuition, operate schools, or do both.

(b) State Board's Plan. The State Board reviews and analyzes the Secretary's proposal, takes testimony and asks for additional information from districts and SUs, and then either approves the proposal as submitted OR approves the proposal in an amended form that adheres to the provisions and protections of subsection (a). The State Board publishes a plan that realigns districts as necessary by November 30, 2018.

(c) Applicability. This Section does NOT apply to:

- interstate school districts
- career technical education school districts (3)
- unified union school districts that voluntarily merged under this act or otherwise between 6/30/2013 and 7/2/2020

Sec. 11. Quality Assurance; Accountability; Data Collection *[Senate]*

The Secretary of Education reviews, evaluates, and keeps the State Board apprised of:

- discussions, studies, and activities of school districts regarding voluntarily creating unified union school district in preferred structure (Sec. 2(a))
- data and other information collected from accelerated activity per Sec. 6 and from other finalized mergers
- data collected in connection with Education Quality Standards and the related on-site quality reviews

Sec. 12. Education Technical Assistant *[Senate]*

Section 12 authorizes one Limited Service Technical Assistance Position in the Agency of Education to assist districts. The position is authorized, however, ONLY if it is paid SOLELY through non-State funds.

***** Merger Support Grants; Current and Other Incentives *****

Secs. 13–14. Refund Upon Sale Of School Buildings Requirement; New School Districts; Joint Contract Schools; Review Of The Refund Upon Sale Requirement
[House language with additions]

Section 13 exempts newly formed union school districts and joint contract schools from the statutory requirement that school districts repay a portion of State construction aid upon sale of a school building. The exemption is repealed on July 1, 2017.

Section 14 directs the Secretary of Education to review and report on school districts that are subject to the statutory requirement to repay a portion of State construction aid upon sale of a school building, including the amount of aid received and refunded to the State and the number of school districts that are not in use for any purpose. The Secretary will also consider (1) whether and to what extent the State should exempt a district from repayment if the building is sold for a community purpose and (2) the potential cost of providing construction aid to merging districts. *Due: December 1, 2015*

Sec. 15. Merger Support Grants; REDS *[House]*

Small School Grants currently become Merger Support Grants for 5 years if a district loses its eligibility because it merges into a regional education district or one of the variations. As in Secs. 6 and 7 did for mergers occurring under those sections, Section 15 removes the five year limitation, allowing the grant to continue unless and until a merged district closes the small school. If closure of the school is connected with the consolidation of schools into a new building or into an existing building that needs renovation, however, the grant is paid until the bonded indebtedness is retired.

Secs. 16–17. Extended Eligibility Dates for Red Incentives *[amended House & Senate]*

Current law provides incentives to regional education districts and the three variations if they are fully operational by 7/1/17. Section 16 extends eligibility for incentives to districts that receive final approval of the electorate in all “necessary districts” by that date. Section 17 deletes a subsection that would have repealed the incentives on the day districts would become eligible.

Sec. 18. Shortened Eligibility Date for Current Incentives (\$150,000 Grants) [Senate]

Currently, there are several types of incentives available to districts and SUs that are exploring merger or other forms of joint activity. These include reimbursement of actual costs of between \$5,000 and \$20,000 incurred in the process of analyzing and potentially pursuing joint activity, as well as grants of \$150,000 to assist with transition costs. Section 18 moves the eligibility deadline for the \$150,000 grants from July 1, 2017 to December 31, 2015.

Sec. 19. Authorization; Financial Incentives [House]

Section 19 authorizes use by the Agency of Education of \$620,000 from FY2015 Education Fund appropriations, prior to reversion, for the reimbursement of expenses and other financial incentives authorized by current law for regional education district and other types of joint activity by districts or SUs.

*** * * Small School Support; Effective Fiscal Year 2020 * * ***

Secs. 20–21. Small School Support [House with amendments]

Beginning on July 1, 2019, if a district's Small School Grant has not been converted into an annual Merger Support Grant through voluntarily merger (see Secs. 6, 7, and 15 above), then the district will be eligible to receive a Small School Grant as follows:

- the district operates a school with an average grade size of 20 or fewer students
AND
- the State Board of Education determines annually that the district is eligible due to EITHER:
 - the lengthy driving times or inhospitable routes to the nearest school with excess capacity OR
 - the academic excellence and operational efficiency of the small school, based upon consideration of:
 - the school's measurable success in providing a variety of high quality educational opportunities
 - the percentage of students in the school from economically deprived backgrounds and the student's measurable success in achieving positive outcomes
 - the school's high student-to-staff ratios
 - the district's participation in merger a merger study committee

Section 21 requires the State Board to adopt and publish metrics by July 1, 2018 by which it will measure requests for small school grants under Sec. 20.

***** Declining Enrollment; Equalized Pupils; 3.5 Percent Limit *****

Secs. 22–25. Calculation of the 3.5% Hold-Harmless Provision for Declining Enrollment
[Senate]

Under current law, the 3.5 % hold-harmless provision is applied to the prior year’s *inflated* equalized pupils.

Sec. 22 removes the “tail” by applying the 3.5% to the district’s *actual* equalized pupils from the prior year, so a district’s percentage of “phantom pupils” is never more than 3.5%. This would begin to apply in FY17.

Sec. 23 transitions districts that currently have inflated equalized pupils to the new system over a three year period, so the new method of calculation applies to these districts in FY19. These dates would be delayed for one-year for a district that is actively engaged in merger discussions.

Sec. 24 repeal the 3.5% hold-harmless provision in FY21.

Sec. 25 grandfathers districts that voluntarily merge into the preferred governance structure described in Section 5(b) or a regional education district by July 1, 2019.

***** Yield; Dollar Equivalent *****

Secs. 26–32 Yield; Dollar Equivalent *[House and Senate]*

These Sections replace the base education amount currently used to calculate base tax rates each year with a different “dollar equivalent yield” for two groups:

- (1) taxpayers who pay on the value of their property; and
- (2) taxpayers who receive an income sensitivity adjustment.

The “dollar equivalent yield” is the amount of per pupil spending that could be supported each year by a fixed homestead base tax of \$1.00 for property payers, and by a fixed applicable income percentage of 2.0 for income payers.

The Tax Commissioner would propose each dollar equivalent yield annually, but it would be the General Assembly’s responsibility to establish each dollar equivalent annually.

Sec. 26: In a dollar equivalent yield system, the base education amount is replaced by either the property dollar equivalent yield or the income dollar equivalent yield. The changes in Sec. 26 make it clear that the base education amount is no longer used to calculate tax rates.

Sec. 27 replaces the current district spending adjustment with an education property tax spending adjustment and an education income tax spending adjustment. Both of these spending adjusters incorporate the dollar equivalent yield number as the denominator, rather than using the base education amount. The section creates new definitions for “property dollar equivalent yield” at \$1.00, and “income dollar equivalent yield” at 2.0%.

Sec. 28 sets the base homestead rate at \$1.00 and applies the new education property tax spending adjustment to that base rate.

Sec. 29 applies the new education income tax spending adjustment to the applicable percentage for determining property tax adjustments.

Sec. 30 authorizes Legislative Council to rename the “applicable percentage” used to calculate property tax adjustments as the “income percentage”.

Sec. 31 makes a conforming change in the language that specifies how property taxes are calculated for the unorganized towns and gores.

Sec. 32 strikes the current law that requires the Commissioner of Taxes to recommend a base homestead and nonresidential rate for the upcoming year, and inserts language requiring the Commissioner to recommend a property dollar equivalent yield, an income dollar equivalent yield, and a nonresidential property tax rate. The section also specifies that the General Assembly must establish these each year.

Effective Date: July 1, 2015; applies to fiscal year 2017 and after

***** Ballot Language; Per Equalized Pupil Spending *****

Secs. 33–34. Ballot Language; Per Equalized Pupil Spending [House]

Section 33 requires the warning for a school district’s proposed budget to state (1) the total budget in terms of per equalized pupil spending and (2) the percentage increase or decrease of per equalized pupil spending in relation to the previous year. Sections 33 and 34 also repeal language that is no longer in effect regarding presenting budgets by means of a divided vote.

***** Fiscal Year 2016 Education Property Tax Rates, Applicable Percentage, and Base Education Amount *****

Secs. 35–36. Fiscal Year 2016 Tax Rates [Senate]

FY16 Property Tax Rates, Applicable Percentage, and Base Education Amount

Section 35 establishes the fiscal year 2016 property tax rates as follows:

- nonresidential rate – \$1.535
- homestead rate – \$0.99
- applicable percentage – 1.80 percent

Sec. 36 sets the base education amount at \$9,459.00.

***** Cost Containment; Allowable Growth in Education Spending for Fiscal Years 2017 and 2018 *****

Secs. 37–38 Allowable Growth in Education Spending; FY17 and FY18

For fiscal years 2017 and 2018 only, the way the excess spending penalty is triggered will be changed. If a district exceeds its allowable growth in spending for either of those years, then any spending above the allowable growth will be counted twice for purposes of calculating tax rates. Allowable growth is determined on a sliding scale, from zero to 5.5%, depending on how much the district spent in the prior year. The more the district spent in the prior year, the less its allowable growth will be the following year.

***** Duties of Supervisory Unions; Failure to Comply; Tax Rates *****

Sec. 39. Five % Tax Penalty for Failure to Comply with Current Law; FY18 [Senate]

After notice, hearing, and opportunity to remediate, if an SU or a district or districts fail to comply with current statutes requiring the SU to perform specified duties on behalf of member districts, then the tax rates for each district is increased by 5 % until compliance. If lack of compliance is due to one district, then the tax rate increase applies only to that district.

Effective July 1, 2016; but tax rates are not subject to increase until FY 2018

***** Quality Assurance; Accountability; Fiscal Year 2020 *****

Sec. 40. Authority of State Board of Education to Take Action when a District Fails to Meet or Progress toward Meeting Education Quality Standards (EQS) [Senate]

Section 40 clarifies the actions that the State Board is currently authorized to order if a district fails to meet or progress toward meeting Education Quality Standards per 16 V.S.A. § 165(b):

- AOE provides additional technical assistance
- SBE adjusts SU boundaries or duties of SU
- AOE assumes administrative control to extent necessary
- SBE closes school(s) and requires tuitioning

Section 40 also adds the new authority to merge districts if necessary.

Effective on 7/1/2019

***** Miscellaneous *****

Sec. 41. SU Boundaries [Senate]

Section 41 clarifies current authority for districts to ask State Board of Education for an SU boundary change if putting another district into a different SU facilitates merger of the petitioning districts

Sec. 42. Local Education Agency for Federal Accountability (AYP) Purposes [Senate]

Section 42 makes SUs the is Local Education Agency for federal accountability (AYP) determinations effective July 1, 2016.

Sec. 43. Employee Transition to New Employer [House and Senate]

Section 43 codifies as a new subchapter in Title 16 several new statutory sections relating to the orderly transition of employees to a newly created district or to the supervisory union level, including protection of the interests of non-licensed employees in the Vermont Municipal Employees' Retirement System. The General Assembly has enacted variations of this language as session law several times in connection with specific situations.

Effective Date: On passage; applies to a new employer that begins operations after that date except that it does not apply to the transition of employees to the new joint contract school to be operated by the Pomfret and Bridgewater districts beginning in the 2015–2016 school year.

Sec. 44. Definition of Unified Union School District *[Senate]*

The current definition of a unified union school district requires that a district operates a school or schools for kindergarten through grade 12. Section 44 amends the definition to include districts that pay tuition payment for some or all grades.

Sec. 45. Designation of High Schools *[House]*

Currently, districts that don't operate high schools may designate one public or approved independent school to be the high school for students residing in the district. Sec. 45 authorizes a nonoperating district to designate three or fewer schools.

***** Reports *****

Sec. 46. Special Ed Funding *[House]*

Section 46 requires the Secretary of Education to develop a proposal for an alternative method of funding special education services, which might be based in part on payments per average daily membership. **Due: January 15, 2016**

Sec. 47. Principals and Superintendents *[House]*

Section 47 requires the Secretary of Education, in consultation with other entities, to develop a proposal to clarify the roles and responsibilities of superintendents and principals.
Due: January 15, 2016

Sec. 48. Property Tax Adjustment; Lag *[House]*

Section 48 requires the Commissioner of Taxes to report on the steps that would be required to transition to calculation of the property tax adjustments under 32 V.S.A. chapter 154 on a current year basis. *Due: January 15, 2016*

Sec. 49. AHS / AOE Coordination *[Senate]*

Section 49 requires the Agencies of Education and of Human Services to develop a plan to maximize the collaboration and coordination of social services delivery to Vermont public school students and their families. *Due: January 15, 2016*

Sec. 50. Adequacy Model *[House]*

Section 50 directs the Joint Fiscal Office, in consultation with the President Pro Tempore, Speaker of the House, and Chairs of the House and Senate Education Committees to develop requests for proposals to hire, by 7/15/15, a consultant to conduct a study of adequacy-based funding models.

The section sets forth the standards and methods that should be used by the consultant to conduct the adequacy study. It also requires the consultant to incorporate certain data and studies into the adequacy study and to conduct public participation activities with interested stakeholders.

The section provides the consultant with technical assistance from the Agency of Education, Department of Taxes, Joint Fiscal Office, and Office of Legislative Council.

The section authorizes transfer to the Joint Fiscal Office of up to \$300,000 from FY15 Education Fund appropriations, prior to reversion, to pay for the study and related expenses.

Due: January 15, 2016

Sec. 51. Health Care Costs *[House]*

As part of another legislatively-required study relating to health care coverage for all public employees, Section 51 requires the Director of Health Care Reform to consider alternatives available to school districts, supervisory unions, and their employees to address the high cost of health care. Among other options, the Director is required to consider the possibility of transitioning to plans offered through Vermont Health Connect, the Vermont Education Health Initiative, and other mechanisms. *Due: November 1, 2015*

Sec. 52. Effective Dates