VERMONT SCHOOL BOARDS ASSOCIATION

Great Governance, Excellent Education, Strong Communities

To: The Senate Education Committee
From: Nicole Mace, Executive Director
Date: March 14, 2017
Re: Act 46 Committee Bill – Version 12.1

Thank you for the opportunity to testify on the Senate Education Committee's bill to modify Acts 153,156 and 46. With respect to the provisions in both this bill and the miscellaneous education bill that would affect the composition and responsibilities of the State Board of Education, I want to ensure the VSBA is on the record in opposition to these provisions, for the following reasons:

- While the process has not been smooth, the State Board's consideration of the rules governing independent school approval is entirely appropriate given the significant amount of public dollars paid to those private institutions to educate publicly funded students. Their actions are also well within their statutory rule-making authority.
- 16 VSA 166(b) provides the parameters for the Board's rulemaking authority on the approval of independent schools. It states "*the Board's rules **must at minimum** require that the school has the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and **special services that are in accordance with any State or federal law or regulation.***" Nothing in the Committee's proposed bill modifies 16 VSA 166(b). However, the proposed language in Section 20 would create confusion at best and, at worst, conflict with 166(b).
- With respect to the proposed additions to 16 VSA 164(14) in Section 20, I am not aware of any provision of law that makes specific reference to the unique "mission" of independent schools, or some of the other "findings." It is impossible to determine what legislative intent has been for a statutory scheme that is over 100 years old and has evolved over time. The proposed language in Section 20 appears to give independent schools ***more*** statutory privileges over public schools than currently exists under the law, as does the language that would reserve one seat on the State Board exclusively for representatives of private schools.

- The purpose of the State Board's revisions to the rules is to ensure equity and access for all publicly-funded students, irrespective of socio-economic status, aptitudes, aspirations or learning need. Data suggest the current process for enrolling publicly-funded students is not providing equal access to students with disabilities or students in poverty. Due to these disparities, the Human Rights Commission has stated its support for the State Board's proposed rule to require an open enrollment process for all publicly-funded students.
- Given the current conversation at the federal level, including the appointment of Betsy DeVos as education secretary[1], work to achieve equity and fairness for marginalized students is even more critical. It is remarkable that in Vermont the State Board would come under fire for efforts to improve access to educational opportunity and better serve students with special needs.

Having the legislature intervene in the rulemaking process in this manner is unprecedented, as far as I am aware. This process, and the students of the state of Vermont, will be better served by a less politicized process, not more politicization.

With respect to the other provisions of the bill, I want to start by sharing that Town Meeting Day 2017 saw the greatest number of mergers approved by voters in a single day. Since the passage of Act 46 in 2015, voters in 96 towns within 21 supervisory unions have voted to merge 104 school districts into 16 unified union school districts and 4 modified unified union school districts.

Given the number of districts that have complied with the law or are in the process of complying with the law, one important principle for the VSBA board is that any changes to the law should not fundamentally alter the rules that districts must follow in order to comply. With that principle in mind, we offer the following suggestions:

In Section 3, the addition of subdivision 2(C), which would change the definition of an existing district to be one whose level of indebtedness per equalized pupil is not "comparable" to that of merging districts around them, constitutes a significant change to the "rules" of Act 46 that districts have been proceeding under for the past 19 months. To allow a district within a supervisory union that has the ability to

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[1] Center for American Progress, *Betsy Devos' Threat to Children with Disabilities*, (February 2, 2017). Available at: https://www.americanprogress.org/issues/education/reports/2017/02/02/298010/betsy-devos-threat-to-children-with-disabilities/

merge because it has the same operating structure as those around it simply because it has greatly differing debt from the others is a significant shift and one that we oppose.

Also in Section 3, subdivision 2(B), we request a clarification that an Existing District is structurally isolated at the time of the law's passage, so as not to incentivize districts to change their operating structure in order to avoid merging.

In Section 4, we are not clear as to the purpose of the 2-2-1 structure or what specific districts that structure is intended to address. If the new structure is not necessary to respond to a specific circumstance, we would recommend eliminating it as it could be confusing and lead to more isolated districts than we otherwise might see.

In Section 5, withdrawal from a union high school district, we strongly encourage the Committee to ensure that this provision applies only to school districts that are members of a union high school district but have a different operating structure than the other member districts. This would capture Vernon, as well as North Bennington school district, both of which have unique operating structures.

If the Committee expands this process to all other union high schools, it would constitute a major change in the rules late in the process, and it could lead to a lot of time being consumed at the State Board level by a handful of districts that wish to withdraw from their union high school district. In some cases, withdrawal of a single district would be the demise of a union high school district. That is why the statutory process is structured the way that it is.

In Section 6, subdivision (b)(2) does not make sense, because self-study activities and alternative structure proposals are not necessarily conducted by a 706b study committee. We recommend striking that provision.

Act 46 can and should be improved, but the General Assembly should not lose sight of the goals of the law. We must achieve equity of opportunity for every child at a cost that taxpayers can support. The strength and vitality of our public education system depends upon it.

2 Prospect Street, Suite #4, Montpelier VT 05602
Tel. 1-800-244-VSBA or (802)223-3580 Fax: 802-223-0098
Visit our web site at: www.vtvsba.org