



CONNECTICUT SCHOOL COUNSELOR ASSOCIATION

2018 Legislative Session Summary

After a 2017 that was filled with budget debates, a Governor's veto and special sessions, 2018 was a vastly different legislative session. On the final night of the legislative session a bipartisan midterm budget adjustment for Fiscal Year 2019 was passed. Unlike in 2017 a bipartisan budget was already in place and with increased tax revenues filling the General Fund and upcoming elections the budget negotiations came together much quicker.

Included in the budget package is a restoration of municipal aid funds that had been cut, fully funding the Medicare Savings Program and ensuring eligibility for current Husky A Medicaid recipients. The bill also provides a 1% cost of living adjustment for non-profit providers funded through several state agencies- with those serving the Department of Developmental Services' clients receiving an additional increase. Other new spending was put in the budget for elderly nutrition and emergency placement for those with developmental disabilities.

The budget also limits the budget savings that the Governor and Secretary of OPM are required to achieve. The bipartisan budget agreement had provided well over \$100 million in targeted savings that was scaled down to several million. Additionally, the budget loosens the recently enacted volatility cap, works to stabilize the Special Transportation Fund and makes changes to the bond covenant. Legislators have said these changes will ensure that rail and bus fares do not increase but that more must be done in the future on transportation.

Major legislation included passage of a ban on bump stocks, financial aid for "Dreamers", joining of the national popular vote compact, a wage increase for group home employees, an equal pay for equal work measure, a new energy reform plan, increased pharmaceutical oversight and data collection, new opioid initiatives and limiting of the Hartford debt deal.

Other issues remained unresolved and will likely be revisited in the next legislative session depending on the makeup of the legislature. Some of the issues that garnered particular attention include how to move forward with casinos in the state, legalization of marijuana, permitting sports gambling, a comprehensive transportation plan including tolls, a paid family medical leave program, increasing the minimum wage and a "Times Up" bill addressing sexual harassment and sexual assault.

BUDGET & RELATED LEGISLATION

The legislature passed **Public Act 18-81 (SB 543)- AN ACT CONCERNING REVISIONS TO THE STATE BUDGET FOR FISCAL YEAR 2019 AND DEFICIENCY APPROPRIATIONS FOR FISCAL YEAR 2018** on the final day of the legislative session. The budget builds on the 2017 bipartisan budget deal while making key adjustments to transportation, healthcare benefits and municipal aid. The revised budget



appropriates \$20.855 billion in spending placing it under the spending cap by \$734.4 million in Fiscal Year 2018 and \$0.5 million in Fiscal Year 2019.

The newly passed budget would leave Connecticut with \$1.1 billion in the “Rainy Day Fund.” The budget growth rate in the amendment for the all appropriated funds is 2.1% over FY 18 original appropriations.

BUDGET ADJUSTMENT PRIORITIES

When budget negotiations finally got underway it was clear the main priorities were to reinstate funding for the Medicare Savings Program, maintain prior eligibility levels for the Medicaid Husky A population and provide municipalities with previously appropriated spending that would not be cut during the fiscal year. The finalized budget ensured that all of this was achieved.

The agreed upon budget eliminates a decrease to the Medicare Savings Program (MSP) income limits which had been scheduled to go into effect on July 1, 2018. This change ensures that qualified individuals making less than 246% of the Federal Poverty Level (FPL) will continue to receive the same benefits.

The budget also expands HUSKY A eligibility by raising the income limit for non-pregnant adults to 150% FPL, which with the 5% income disregard when making Medicaid eligibility determinations, to 155% of the FPL or \$32,209 for a family of three. Under the budget deal, the income limit for parents and caretakers in this program had been decreased to 133% FPL. It now reverts back to the pre-FY 2018 qualification level.

The new budget gives communities \$70.5 million more in 2018-19 than they received this year and prohibits the Governor from cutting town grants to achieve savings targets. The budget raised the statewide cap on municipal property taxes on automobiles from a maximum rate of 39 mills to 45 mills.

PRIVATE NON-PROFIT PROVIDERS

The budget provides new spending in several key areas for private human services providers. The budget appropriates funding for the recently passed **Special Act 18-5 (HB 5460)- AN ACT CONCERNING MINIMUM EMPLOYEE WAGES FOR PROVIDERS OF STATE-ADMINISTERED SERVICES FOR PERSONS WITH INTELLECTUAL DISABILITIES.**

- The budget appropriates a net of \$10.8 million to increase the minimum wage paid to private group home provider employees to at least \$14.75 per hour by January 1, 2019 and providing a wage increase (up to 5%) to employees earning between \$14.76 and \$30.00 per hour by January 1, 2019.
- The budget further requires the OPM Secretary to allocate available FY 19 funds to provide a 1% COLA to employees who provide state-administered human services. The bill allows the secretary to reduce rates for any provider that receives such funds but fails to provide his or her employees with such adjustment.
- Employees include any privately employed person who provides state-administered human services, including any person in a contractual arrangement with a human services provider who is not directly employed by such provider, and includes services administered by the:
 - Departments of Correction, Housing, Public Health, Social Services, Children and Families, Rehabilitation Services and Mental Health and Addiction Services; the Office of Early Childhood; and the Judicial Department that involve direct care of or services for



eligible persons, including: (1) medical services, (2) mental health and addiction treatment, (3) nutrition and housing assistance, and (4) services for children.

- Finally, the budget adds \$5 million for emergency residential placements for individuals with intellectual and developmental disabilities, adds \$5 million for the Temporary Aid for Needy Families welfare program, appropriates \$4.6 million in a separate line item for elderly nutrition after the Department of Aging is absorbed by the Dept. of Rehabilitative Services and provides additional Educational Cost Sharing funding for districts with Puerto Rican and other evacuees.

VOLATILITY CAP & BOND COVENANT

- The bipartisan budget that passed established a volatility cap requiring the state treasurer to transfer revenue the state receives each fiscal year in excess of \$3.15 billion from personal income tax estimated and final payments. Beginning July 1, 2018, the bill requires the \$3.15 billion threshold amount to be adjusted annually for personal income growth, based on the compounded annual growth rate of state personal income over the preceding five calendar years, using U.S. Bureau of Economic Analysis data.
 - The bill also authorizes the General Assembly to amend the \$3.15 billion threshold, by a vote of three-fifths of the members of each house, due to changes in state or federal tax law or policy or significant adjustments to economic growth or tax collections.
- The bond covenant requires that for any bonds issued from May 15, 2018, to June 30, 2020, the treasurer must include a pledge to bondholders that the state will not enact any laws taking effect from May 15, 2018, to June 30, 2028, that change the state's obligation to comply with the specified laws until the bonds are fully paid off. The bill shortens this timeframe by five years, to July 1, 2023. It also requires the bond pledge to apply for five years, rather than 10 years, from the bonds' first issuance date.

COMMISSION ON FISCAL STABILITY & ECONOMIC GROWTH

- The bill establishes a 7-member panel to study the Commission on Fiscal Stability and Economic Growth's proposals concerning the rebalancing of state taxes to better stimulate economic growth without raising net new taxes. It requires the panel's study to include:
 - (1) a review of options for expanding municipal revenue sources and methods to broaden the sales and use tax base and
 - (2) consider the work of the commission and the 2015 State Tax Panel.
- The bill requires the panel, by January 1, 2019, to submit its findings and recommendations to the Finance, Revenue and Bonding Committee.
 - The Commission had recommended a wholesale tax reform plan with \$1 billion in cuts, raising the minimum wage, lowering income taxes and increasing corporate taxes, while eliminating SEBAC collective bargaining of pension and health benefits after 2027. The legislature could consider any recommendations during the 2019 legislative session.



COUNSELOR LEGISLATION

SCHOOL COUNSELORS

P.A. 18-15 (SB 186)- AN ACT CONCERNING SCHOOL COUNSELORS adds “school counselor” to every state law that currently mentions “guidance counselor.” Those include:

1. membership on the committee to coordinate the education of middle school and high school students about manufacturing careers;
2. the State Department of Education’s program to introduce students, parents, and counselors to manufacturing careers;
3. the definition of “mental health professionals” for statutes governing school-based primary mental health programs;
4. the list of school employees who can attest on a student's public school withdrawal form that the school district provided the student's parent with information on the educational options available in the school system and community;
5. membership on district and school attendance review teams;
6. the definition of “school employee” for the statute that requires board of education policies prohibiting school employees from (a) preventing a student from participating in physical exercise during the school day as a form of punishment and (b) requiring any kindergarten through grade 12 student to engage in physical activity during the school day as a form of discipline;
7. the definition of “school employee” for statutes governing safe school climate plans;
8. the Office of Higher Education's required informational offerings about student financial assistance affairs;
9. the definition of “counselor” for statutes governing abortion;
10. the list of professionals required to report suspected abuse or neglect of individuals who have an intellectual disability or receive autism spectrum disorder services;
11. the definition of “school employee” for statutes governing sex offenses; and
12. the list of professionals to whom a victim may disclose a personal injury and thereby be entitled to compensation through the Office of Victim Services or a victim compensation commissioner

LICENSED PROFESSIONAL COUNSELORS

P.A. 18-xx (HB 5163)- AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH’S RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES includes language that fixes last year’s change to the counselor statute involving the supervised experience of pre-licensed counselor.

- Specifically, the legislation permits graduates to practice as a counselor in an unlicensed capacity for up to two years after completing the supervised work experience, even if they failed the respective licensing examination.
 - The previous language was interpreted by some, including the National Association of Social Workers, to revoke the ability to practice under supervision if the individual failed the licensure exam. This was not the intent of the legislation and this language ensures



that graduates can continue to practice under supervision for up to two years after completion of the required supervision experience.

- The same language was also changed for graduates with advanced degrees in marital and family therapy and psychology.

EDUCATION LEGISLATION

CLASSROOM SAFETY

P.A. 18-89 (SB 453)- AN ACT CONCERNING CLASSROOM SAFETY AND DISRUPTIVE BEHAVIOR requires local and regional boards of education, as well as the State Department of Education (SDE), to address daily classroom safety in a manner similar to how they must address bullying and teen dating violence under current law. Those changes to school safety and school climate laws include:

- Requiring boards of education to address daily classroom safety in their safe school climate plans;
- Requiring boards of education to annually report to SDE instances of daily classroom safety violations
- Allowing teachers to refer out of their classroom students who commit daily classroom safety violations and sets standards for the student's return;
- Requiring SDE to provide school districts with training and assistance;
- Expanding the duties of school staff in safe school climate leadership positions to include daily classroom safety issues; and
- Expanding the statutory definition of a “prevention and intervention strategy” used to address daily classroom safety violations

FINANCIAL AID TO STUDENTS WITHOUT LEGAL IMMIGRATION STATUS

P.A. 18-2 (SB 4)- AN ACT ASSISTING STUDENTS WITHOUT LEGAL IMMIGRATION STATUS WITH THE COST OF COLLEGE extends eligibility for institutional financial aid to attend a state public higher education institution to certain students, including honorably discharged veterans and those who lack legal immigration status.

- The bill extends eligibility for the aid to these students, to the extent allowed by federal law, if they meet certain residency, age, and criminal history requirements.
 - Students without legal immigration status must meet the requirements for in-state student classification or be an honorably discharged veteran of the United States armed forces; be age 30 or younger as of June 15, 2012; have been age 16 or younger, or age 15 for veterans, upon arrival in the United States and have continuously lived in the country since that time; be free of felony convictions in all states; and have filed an affidavit with the institution they are attending stating that they have either filed an application to legalize their immigration status or will file one as soon as eligible.
- Under the bill, veterans are eligible for institutional financial aid upon the bill's passage, while non-veterans are eligible on the earlier of January 1, 2020 or when Congress provides a “pathway to citizenship” for students without legal immigration status. The bill does not define “pathway to citizenship.”



- The bill specifies that it does not require or compel an institution to match the amount of federal student aid that such students would receive if they were eligible for federal student aid.
- The bill requires UConn and the Board of Regents for Higher Education, by July 1, 2018, to establish procedures and develop forms to enable the newly eligible students to apply for and receive institutional financial aid. It allows UConn and BOR to adopt any policies necessary to implement the bill.

SCHOOL SECLUSION

P.A. 18-51 (SB 183)- AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF EDUCATION makes changes to education law including seclusion procedures.

- The bill adds the term “exclusionary time out” to the law and makes it a separate category from seclusion. It defines exclusionary time out as “a temporary, continuously monitored separation of a student in a non-locked setting away from an ongoing activity for the purpose of calming or deescalating such student's behavior.”
 - By law, seclusion is the involuntary confinement of a student in a room that the student is prevented from leaving. Under the bill, seclusion does not include exclusionary time out.
- This legislation requires each local or regional board of education to establish, by January 1, 2019, a policy regarding the use of exclusionary time out. The local policies must include minimum requirements for exclusionary time out to be used, prohibit the use for discipline, and require the space be safe among other standards.
- The bill allows the State Board of Ed to suspend a teacher’s certificate, permit, or authorization or to place a teacher’s credential on probation in certain discipline cases.

MINORITY TEACHER RECRUITMENT AND RETENTION

P.A. 18-34 (SB 455)- AN ACT CONCERNING MINORITY TEACHER RECRUITMENT AND RETENTION makes a number of changes in the teacher certification laws to make it easier, in certain areas, to obtain certification or cross endorsement.

- Requires the State Department of Education (SDE) to identify and utilize or support a number of practices and programs to boost minority teacher recruitment;
- Requires SDE to develop or review and approve a new alternate route to certification program for people in certain professions to be teachers, including paraeducators, charter school teachers, veterans, and others;
- Adds a new member to the teacher Performance Evaluation Advisory Council and requires the council to work collaboratively with the Minority Teacher Recruitment Task Force;
- Authorizes (a) the chairpersons of the Minority Teacher Recruitment Task Force to appoint a new member to the task force who will serve as the third chairperson and (b) the Commission on Equity and Opportunity executive director to appoint three members of the task force, instead of the executive director, or her appointee, serving on the task force;
- Requires the State Board of Education’s five-year education plan to include a statement that the state’s teacher workforce should reflect the racial and ethnic diversity of the state;



- Limits local and regional boards of education minority recruitment plans to educators, rather than staff; and
- Requires SDE to enter into a memorandum of understanding with teacher licensure test vendors to allow some test takers to get a free retake of the exam under certain conditions

STUDENTS' RIGHT TO MOBILE DEVICE PRIVACY

P.A. 18-xx (HB 5170)- AN ACT CONCERNING STUDENTS' RIGHT TO PRIVACY IN THEIR MOBILE ELECTRONIC DEVICES creates a standard for determining when a public school administrator can search a student's personal mobile electronic device to access data or other content stored on or accessed from the device.

- Current case law holds that student searches by school administrators are subject to the Fourth Amendment and that reasonable cause is required before a student or the student's personal effects can be searched.
- The bill bans a school employee from taking a student's personal device to search it or compelling a student to provide access to it unless the device is on school property or being used during a school-sponsored activity and there is a reasonable suspicion that the student:
 1. violated an educational policy and the device contains evidence of the suspected violation or
 2. poses a risk of imminent personal injury to him or herself or others.
- It limits the search to finding evidence of the suspected violation or the risk of imminent personal injury and requires other steps, including notifying the student and the student's parents within 24 hours of the search.

STUDENT DATA PRIVACY

P.A. 18-xx (HB 5444)- AN ACT CONCERNING REVISIONS TO THE STUDENT DATA PRIVACY ACT makes numerous changes in the student data privacy law.

- The law restricts how website, online service, and mobile application operators and consultants who contract with local and regional boards of education process and access student data. The law requires operators and consultants to use reasonable security practices to safeguard student data.
- The bill requires the Commission for Educational Technology (CET) to develop a student data privacy terms-of-service agreement addendum that may be used in contracts entered into pursuant to the student data privacy law.
- With respect to the privacy law, the bill also
 1. creates certain exceptions for contractors and operators from requirements for deleting student data at a board of education's, student's, parents', or guardian's request;
 2. creates an exception, under certain conditions, for boards when they have special education students using a particular online service that is necessary, but unable to meet the contract requirements;
 3. eliminates a requirement that boards electronically notify students and parents of new contracts;



4. requires the SDE to add more information to the guidance it must already provide school districts;
5. requires boards of education to annually report to CET on using any online service that does not operate under a contract as required by the law and the bill.

OTHER EDUCATION STATUTE CHANGES

P.A. 18-xx (HB 5446)- AN ACT CONCERNING MINOR REVISIONS AND ADDITIONS TO THE EDUCATION STATUTES makes numerous changes to education statutes including:

- Delaying, by one year, the transition of the Technical Education and Career System into an independent state agency, separate from the SDE;
- Makes instruction on opioid use and related disorders part of the state's required public school program of instruction;
- Requires the State Board of Education to assist local and regional boards of education in including instruction related to Connecticut's "safe haven law";
- Creates a process to exempt small school districts from enrolling as Medicaid providers and other related state requirements;
- Requires school districts' chronic absenteeism and prevention plans to include a way to collect and analyze data on student attendance, truancy, and chronic absenteeism for students with disabilities;
- Requires SDE to identify effective truancy intervention models for boards of education that address the needs of students with disabilities and include them in a listing made available to the boards;
- Establishes a 12-member task force to study high school interscholastic athletics programs and must submit its report to the Education Committee by January 1, 2019; and
- Prohibits a board of education from denying certain students from enrolling in an agricultural science and technology education center.