

1 S.46

2 Introduced by Senator Hartwell

3 Referred to Committee on

4 Date:

5 Subject: Education; taxation; education funding; statewide property tax;

6 special education; No Child Left Behind Act; unfunded mandates

7 Statement of purpose: This bill proposes to:

8 (1) Begin the process of transferring the cost of special education and the
9 requirements of the No Child Left Behind Act from local budgets to the state.

10 (2) Authorize the commissioner of education to exempt school districts and
11 supervisory unions from state education mandates upon approval of the
12 district's or supervisory union's proposal to implement alternative, less costly
13 measures that meet statutory goals.

14 (3) Permit the department of education to refuse to perform actions
15 mandated by the general assembly unless the state provides 100 percent of the
16 funding to perform the action.

17 (4) Require the general assembly to assume more responsibility for
18 establishing the statewide property tax rate annually.

19 (5) Require a comprehensive study on and proposal for ensuring the
20 efficient and effective use of resources through the consolidation of school
21 districts.

1 An act relating to the responsibility for providing special education and
2 complying with the No Child Left Behind Act; unfunded mandates; annual
3 adjustments to education property tax rates; and a study concerning
4 consolidation of school districts

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

6 * * * Special Education; No Child Left Behind Act; State Assumption of
7 Responsibilities * * *

8 Sec. 1. SPECIAL EDUCATION; NO CHILD LEFT BEHIND ACT

9 (a) The commissioner of education shall identify all state and federal
10 actions necessary for the department to become and to carry out the
11 responsibilities of a local education agency, as that term is defined in 20 U.S.C.
12 § 7801(26), for purposes of:

13 (1) The receipt and distribution of federal funds, development of
14 individualized education plans, and performance of all other duties required
15 under 20 U.S.C. § 1401 et seq., known as the Individuals with Disabilities
16 Education Act, as amended.

17 (2) The receipt and distribution of federal funds made available to the
18 state under the reauthorization of the federal Elementary and Secondary
19 Education Act of 1965, known as the No Child Left Behind Act of 2001, as
20 amended.

21 (3) The determination of pupil performance, application of
22 consequences for failure to meet standards, and provision of compensatory and
23 remedial services pursuant to 20 U.S.C. §§ 6311–6318.

1 (b) On or before January 15, 2010, the commissioner of education shall
2 report to the senate and house committees on education, the senate committee
3 on health and welfare, and the house committee on human services regarding
4 the results of the work required in subsection (a) of this section. The
5 commissioner shall provide the committees with a comprehensive outline,
6 including a detailed time line, of the process by which the department shall
7 become the local education agency. The outline shall also identify changes
8 requiring federal consent and proposed amendments to state statute and shall
9 address personnel and funding requirements.

10 * * * Unfunded Mandates * * *

11 Sec. 2. 16 V.S.A. § 16 is added to read:

12 § 16. EXEMPTIONS; ALTERNATIVE, COST-CONTAINING MEASURES

13 The commissioner may exempt a school district or supervisory union from
14 the specific requirements of state law if, in the commissioner's sole opinion,
15 the school district or supervisory union proposes to pursue alternative, less
16 costly measures that meet the specific intent of the state law and do not violate
17 any other federal or state law. An exemption shall apply to the sole fiscal year
18 for which it is granted, but may be granted annually upon separate request.
19 The commissioner's determination shall be final. On or before January 15 of
20 each year, the commissioner shall provide a report to the senate and house

1 committees on education, detailing the instances in the previous calendar year
2 in which this exemption was requested and the commissioner's determination.

3 Sec. 3. 16 V.S.A. § 212 is amended to read:

4 § 212. COMMISSIONER'S DUTIES GENERALLY

5 The commissioner shall execute those policies adopted by the state board of
6 education in the legal exercise of its powers and shall:

7 * * *

8 (18) Refuse, in his or her discretion, to perform any action mandated by
9 the general assembly unless the state provides 100 percent of the funding
10 necessary to perform the action and, within 30 days of exercising the right to
11 refuse, shall provide detailed written notification to the members of the senate
12 and house committees on education.

13 * * * Statewide Education Property Tax Rate Adjustments * * *

14 Sec. 4. 32 V.S.A. § 5402(a) is amended to read:

15 (a) A statewide education tax is imposed on all nonresidential and
16 homestead property at the following rates that shall apply to fiscal year 2010
17 only:

18 (1) the tax rate for nonresidential property shall be ~~\$1.59~~ \$1.36 per
19 \$100.00; and

20 (2) the tax rate for homestead property shall be ~~\$1.40~~ \$0.87 multiplied
21 by the district spending adjustment for the municipality, per \$100.00, of

1 equalized education property value as most recently determined under section
2 5405 of this title. The homestead property tax rate for each municipality which
3 is a member of a union or unified union school district shall be calculated as
4 required under subsection (e) of this section.

5 Sec. 5. 32 V.S.A. § 5402b is amended to read:

6 § 5402b. STATEWIDE EDUCATION TAX RATE ADJUSTMENTS

7 (a) Annually, ~~by December 1, after receiving a recommendation on or~~
8 before December 1 of the previous calendar year from the commissioner of
9 taxes shall recommend to the general assembly, after that is based upon the
10 commissioner's consultation with the department of education, the secretary of
11 administration, and the joint fiscal office, the ~~following~~ general assembly shall
12 determine whether it is appropriate to enact adjustments in the statewide
13 education tax rates under subdivisions 5402(a)(1) and (2) of this title:

14 (1) If there is a projected balance in the education fund budget
15 stabilization reserve in excess of the five percent level authorized under section
16 4026 of Title 16, the ~~commissioner shall recommend~~ general assembly shall
17 consider a reduction, ~~for the following fiscal year only,~~ in the statewide
18 education tax rates ~~which~~ that will retain the projected education fund budget
19 stabilization reserve at the five percent maximum level authorized and raise at
20 least 34 percent of projected education spending from the tax on nonresidential
21 property; and

1 (2) If there is a projected balance in the education fund budget
2 stabilization reserve of less than the three and one-half percent level required
3 under section 4026 of Title 16, the ~~commissioner shall recommend~~ general
4 assembly shall consider an increase, ~~for the following fiscal year only,~~ in the
5 statewide education tax rates ~~which~~ that will retain the projected education
6 fund budget stabilization reserve at no less than the three and one-half percent
7 minimum level authorized under section 4026 of Title 16, and raise at least 34
8 percent of projected education spending from the tax rate on nonresidential
9 property.

10 (3) In any year following a year in which the nonresidential rate
11 produced an amount of revenues insufficient to support 34 percent of education
12 fund spending in the previous fiscal year, the ~~commissioner shall determine~~
13 ~~and recommend~~ general assembly shall enact an adjustment in the
14 nonresidential rate sufficient to raise at least 34 percent of projected education
15 spending from the tax rate on nonresidential property.

16 (4) If in any year in which the nonresidential rate is less than the
17 statewide average homestead rate, the commissioner of taxes shall determine
18 ~~the~~ and report to the general assembly all factors contributing to the deviation
19 in the proportionality of the nonresidential and homestead rates ~~and make a~~
20 ~~recommendation for adjusting,~~ which shall adjust statewide education tax rates
21 ~~accordingly~~ appropriately.

1 (b) If the ~~commissioner makes a recommendation to the~~ general assembly
2 ~~to adjust~~ adjusts the education tax rates ~~under section 5402 of this title,~~ the
3 ~~commissioner~~ general assembly shall also ~~recommend~~ enact a proportional
4 adjustment to the applicable percentage base for homestead income based
5 adjustments under section 6066 of this title, ~~but~~ provided the applicable
6 percentage base shall not be adjusted below 1.8 percent.

7 * * * Consolidation Study * * *

8 Sec. 6. STUDY; SCHOOL DISTRICTS AND SUPERVISORY UNIONS;

9 CONSOLIDATION OF FORM AND FUNCTION

10 (a) There is created a school district and supervisory union consolidation
11 study committee to consist of the following members:

12 (1) The commissioner of education, or the commissioner's designee,
13 who shall serve as chair.

14 (2) The executive director of the Vermont Superintendents' Association,
15 Inc. or the director's designee.

16 (3) The executive director of the Vermont School Boards Association,
17 Inc. or the director's designee.

18 (4) The executive director of the Vermont Principals' Association or the
19 director's designee.

20 (5) The president of the VT – National Education Association, or the
21 president's designee.

