

H.889

An act relating to setting the statewide education tax base rates and base education amount for fiscal year 2015 and making several changes to Vermont's education financing laws

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

* * * Statewide Education Property Tax Rates, Base Education
Amount, and Applicable Percentage * * *

Sec. 1. FISCAL YEAR 2015 EDUCATION PROPERTY TAX RATES AND
APPLICABLE PERCENTAGE

(a) For fiscal year 2015 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rates of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.515 per \$100.00; and

(2) the tax rate for homestead property shall be \$0.98 multiplied by the district spending adjustment for the municipality per \$100.00 of equalized property value as most recently determined under 32 V.S.A. § 5405.

(b) For claims filed in 2014 only, "applicable percentage" in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.90 percent multiplied by the fiscal year 2015 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.90 percent.

Sec. 2. FISCAL YEAR 2015 BASE EDUCATION AMOUNT

As provided in 16 V.S.A. § 4011(b), the base education amount for fiscal year 2015 shall be \$9,382.00.

* * * Applicable Percentage * * *

Sec. 3. 32 V.S.A. § 5402b(b) is amended to read:

(b) If the Commissioner makes a recommendation to the General Assembly to adjust the education tax rates under section 5402 of this title, the Commissioner shall also recommend a proportional adjustment to the applicable percentage base for homestead income based adjustments under section 6066 of this title, but the applicable percentage base shall not be adjusted below ~~1.8~~ 1.94 percent.

* * * Form of Budget Vote * * *

Sec. 4. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE IF BUDGET

EXCEEDS BENCHMARK AND DISTRICT SPENDING IS ABOVE
AVERAGE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(11)(A) Shall prepare and distribute annually a proposed budget for the next school year according to such major categories as may from time to time be prescribed by the ~~commissioner~~ Secretary.

* * *

(D) The board shall present the budget to the voters by means of a question in the form of a vote provided as follows:

“Article #1 (School Budget):

The total proposed budget of \$ _____ is the amount determined by the school board to be necessary to support the school district’s educational program. It is estimated that this proposed budget, if approved, will result in education spending of \$ _____ per equalized pupil. This projected spending per equalized pupil is _____ % higher/lower than spending for the current year.

Shall the voters of the school district approve the school board to expend \$ _____, which is the amount the school board has determined to be necessary for the ensuing fiscal year?”

* * *

* * * Increase in Average Daily Membership * * *

Sec. 5. 16 V.S.A. § 4010(b) is amended to read:

(b) The ~~commissioner~~ Secretary shall determine the long-term membership for each school district for each student group described in subsection (a) of this section. The ~~commissioner~~ Secretary shall use the actual average daily

membership over two consecutive years, the latter of which is the current school year. ~~If, however, in one year, the actual average daily membership of kindergarten through 12th grade increases by at least 20 students over the previous year, the commissioner shall compute the long-term membership by adding 80 percent of the actual increase, to a maximum increase of 45 equalized pupils.~~

* * * Education Spending in Small Schools * * *

Sec. 6. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) “Eligible school district” means a school district which operates at least one school, has been determined by the Secretary of Education to be eligible due to geographic necessity; and

(A) has a two-year average combined enrollment of fewer than 100 students in all the schools operated by the district; or

(B) has an average grade size of 20 or fewer.

* * *

(7) “Eligible due to geographic necessity” means that the Secretary of Education has determined, on an annual basis, that the driving times, distances, and travel routes are an obstacle to transporting students, consistent with the methodology used by the Secretary in response to 2009 Acts and Resolves

No. 153, Sec. 21(1). The Secretary may also consider the available capacity of other neighboring schools to enroll additional students. A determination by the Secretary of eligibility due to geographic necessity under this section shall be final.

* * *

Sec. 7. EDUCATION SPENDING IN SMALL SCHOOLS

Notwithstanding 16 V.S.A. § 4015, for fiscal year 2019, any school that was eligible for small school support of its education spending under 16 V.S.A. § 4015 in fiscal year 2018 but is not eligible in 2019 because the school is not eligible due to geographic necessity shall, upon application, receive small school support that is two-thirds of the support it received in fiscal year 2018.

Notwithstanding 16 V.S.A. § 4015, for fiscal year 2020, any school that was eligible for small school support of its education spending under 16 V.S.A. § 4015 in fiscal year 2018 but is not eligible for a small school grant in 2020 because the school is not eligible due to geographic necessity shall, upon application, receive small school support that is one-third of the support it received in fiscal year 2018.

* * * Municipally Owned Lakeshore Property * * *

Sec. 8. 32 V.S.A. § 3839 is added to read:

§ 3839. MUNICIPALLY OWNED LAKESHORE PROPERTY

(a) Notwithstanding section 3659 of this title, a town may vote to exempt from its municipal taxes, in whole or in part, any parcel of land, but not buildings, that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(1) owned by the Town of Hardwick, and located in Greensboro, Vermont; or

(2) owned by the Town of Thetford, and located in Fairlee and West Fairlee, Vermont.

(b) An exemption voted by a town under subsection (a) of this section shall be for up to ten years. Upon the expiration of the exemption, a town may vote additional periods of exemption not exceeding five years each.

Sec. 9. 32 V.S.A. § 5401(10)(K) is added to read:

(K) Any parcel of land, but not buildings, that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(i) owned by the Town of Hardwick, and located in Greensboro, Vermont; or

(ii) owned by the Town of Thetford, and located in Fairlee and West Fairlee, Vermont.

* * * Occupancy of a Homestead * * *

Sec. 10. 32 V.S.A. § 5401(7) is amended to read:

(7) “Homestead”:

(A) “Homestead” means the principal dwelling and parcel of land surrounding the dwelling, owned ~~and occupied~~ by a resident individual on April 1 and occupied as the individual’s domicile for a minimum of 183 days out of the calendar year, or for purposes of the renter property tax adjustment under subsection 6066(b) of this title, rented and occupied by a resident individual as the individual’s domicile.

* * *

(H) A homestead does not include any portion of a dwelling that is rented and a dwelling is not a homestead for any portion of the year in which it is rented.

* * *

* * * Excess Spending Anchor * * *

Sec. 11. 32 V.S.A. § 5401(12) is amended to read:

(12) “Excess spending” means:

(A) the per-equalized-pupil amount of the district’s education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a Capital Construction Reserve Fund under 24 V.S.A. § 2804(b);

(B) in excess of 123 percent of the statewide average district education spending per equalized pupil ~~in the prior fiscal year~~ increased by inflation, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date. As used in this subdivision, “increased by inflation” means increasing the statewide average district education spending per equalized pupil for fiscal year 2014 by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services, from fiscal year 2014 through the fiscal year for which the amount is being determined.

Sec. 12. 2013 Acts and Resolves No. 60, Sec. 2 is amended to read:

Sec. 2. 32 V.S.A. § 5401(12) is amended to read:

(12) “Excess spending” means:

(A) the per-equalized-pupil amount of the district’s education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a Capital Construction Reserve Fund under 24 V.S.A. § 2804(b);

(B) in excess of ~~123~~ 121 percent of the statewide average district education spending per equalized pupil increased by inflation, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date. As used in this subdivision, “increased by inflation” means increasing the statewide average district education spending

per equalized pupil for fiscal year 2014 by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services, from fiscal year 2014 through the fiscal year for which the amount is being determined.

* * * Electrical Generating Plants * * *

Sec. 13. 32 V.S.A. § 5402(d) is amended to read:

(d) A municipality which has upon its grand list an operating electric generating plant subject to the tax under ~~section 5402a of this chapter~~ chapter 215 of this title shall be subject to the nonresidential education property tax at three-quarters of the rate provided in subdivision (a)(1) of this section, as adjusted under section 5402b of this chapter; and shall be subject to the homestead education property tax at three-quarters of the base rate provided in subdivision (a)(2) of this section, as adjusted under section 5402b of this chapter, and multiplied by its district spending adjustment.

Sec. 14. EDUCATION TAXES IN VERNON

Notwithstanding any other provision of law, for the purposes of 32 V.S.A. § 5402(d), the town of Vernon shall continue to be treated as if its grand list included an operating electric generating plant subject to the tax under 32 V.S.A. chapter 215 until the end of fiscal year 2017, and shall be taxed as follows:

(1) for fiscal year 2016, the town of Vernon shall be subject to the nonresidential education property tax and the homestead education property tax at 83 percent of the rate as calculated under subsection 5402(a) of this title;

(2) for fiscal year 2017, the town of Vernon shall be subject to the nonresidential education property tax and the homestead education property tax at 91 percent of the rate as calculated under subsection 5402(a) of this title; and

(3) for fiscal year 2018 and after, the town of Vernon shall be subject to the nonresidential education property tax and the homestead education property tax at 100 percent of the rate as calculated under subsection 5402(a) of this title.

* * * Renter Rebate * * *

Sec. 15. 32 V.S.A. § 6061(7) is amended to read:

(7) “Allocable rent” means for any housesite and for any taxable year ~~24~~ 19 percent of the gross rent. “Gross rent” means the rent actually paid during the taxable year by the individual or other members of the household solely for the right of occupancy of the housesite during the taxable year. “Allocable rent” shall not include payments made under a written homesharing agreement pursuant to a nonprofit homesharing program, or payments for a room in a nursing home in any month for which Medicaid payments have been made on behalf of the claimant to the nursing home for room charges.

Sec. 16. RENTER REBATE REPORT

The Vermont Housing Council, with the assistance of the Department of Taxes, the Joint Fiscal Office, and the Agency of Commerce and Community Development, shall report to the Senate Committee on Finance and House Committee on Ways and Means with recommendations on how to develop programs to assist renters in lieu of the current renter rebate program at 32 V.S.A. § 6066(b). For purposes of the report, the Vermont Housing Council shall be joined by a representative from the Vermont Low Income Advocacy Council and the Vermont Community Action Directors' Association. The report shall consider the current benefits to renters from the renter rebate program, and propose alternative programs that also benefit low-income renters. Any alternative proposals shall have approximately the same eligibility parameters as the current renter rebate program, shall be structured to deliver comparable results, and shall take into account the portion of rent paid by renters that is attributable to property taxes. The report shall be due on or before January 15, 2015.

* * * Income Sensitivity Slope; Housesite Value * * *

Sec. 17. 32 V.S.A. § 6066(a) is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of \$90,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of ~~\$200,000.00~~ \$250,000.00.

* * *

* * * Income Sensitivity Limit * * *

Sec. 18. 32 V.S.A. § 6067 is amended to read:

§ 6067. CREDIT LIMITATIONS

Only one individual per household per taxable year shall be entitled to a benefit under this chapter. An individual who received a homestead exemption or adjustment with respect to property taxes assessed by another state for the taxable year shall not be entitled to receive an adjustment under this chapter. No taxpayer shall receive an adjustment under subsection 6066(b) of this title in excess of \$3,000.00. No taxpayer shall receive total adjustments under this chapter in excess of \$6,000.00 related to any one property tax year, unless one

or more owners of the household are 65 years of age or older, in which case the limit shall be \$8,000.00 related to any one property tax year.

* * * Supplemental Property Tax Relief * * *

Sec. 19. Sec. D.104, of H.885, as enacted, is amended in 32 V.S.A.

§ 308c(a)(2) by striking out subdivisions (A)–(C) in their entirety and inserting in lieu thereof the following:

(A) Of the amount in subdivision (2) of this subsection, upon the recommendation of the economists for the Executive and Legislative Branches, the Emergency Board shall determine what portion of that transfer represents sustainable growth in the coming fiscal year, and an amount not to exceed one-third of that sustainable growth shall be transferred to the Education Fund and an equivalent amount shall be added to the the General Fund transfer under 16 V.S.A. § 4025(a)(2). For the purposes of the recommendations of the economists under this subdivision, any increase in the sustainable growth shall be reduced by the total of any legislative action projected to increase General Fund taxes that result in additional revenue in excess of \$1,000,000.00 over the revenue raised without legislative action in the current fiscal year.

(B) Second, the amount necessary to bring the balance of the Property Tax Relief Fund established under 32 V.S.A. § 6075 up to \$1,000,000.00 shall be transferred to that Fund.

(C) Any remaining amounts from the allocation in this subdivision
(a)(2) shall be transferred into the Education Fund.

Sec. 20. THETFORD EDUCATION PROPERTY TAX RATES IN FY2014

In fiscal year 2015, notwithstanding 16 V.S.A. § 4025, there is appropriated from the Education Fund to the Thetford School District the sum of \$113,125.00 to be used for the sole purpose of reducing the homestead tax rate, which was artificially too high in fiscal year 2014 due to a reporting error in the district budget that caused the district to exceed the excess spending threshold.

Sec. 21. PROPERTY TAX APPEALS STUDY COMMITTEE

(a) Creation. There is created a Property Tax Appeals Study Committee to study two issues in regard to the statewide education property tax:

- (1) how a reduction in listed property value affects towns; and
- (2) the costs to towns of defending property tax appeals.

(b) Membership. The Committee shall have five members:

(1) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(2) one current member of the Senate, who shall be appointed by the Committee on Committees;

(3) the Commissioner of Taxes or designee;

(4) a representative of local government appointed by the Vermont League of Cities and Towns; and

(5) a representative of assessing officials appointed by the Vermont Assessors and Listers Association.

(c) Powers and duties. The Committee shall study the following issues:

(1) The Committee shall analyze the process by which towns are compensated for a reduction in listed value under 32 V.S.A. § 5412 and suggest ways to make that process more equitable.

(2) The Committee shall analyze the current costs to towns of defending property tax valuations that benefit the Education Fund and suggest ways to make the cost of defending property tax appeals more equitable.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council, the Joint Fiscal Office, and Department of Taxes.

(e) Report. On or before January 15, 2015, the Committee shall submit a report to the Senate Committee on Finance and the House Committee on Ways and Means with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Committee shall meet no more than six times. The Committee shall select a chair and vice chair from among its legislative members at the first meeting.

(2)(A) A majority of the members of the Committee shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) Action shall be taken only if there is both a quorum and a majority vote of the members physically present and voting.

(D) The Committee shall cease to exist on January 16, 2015.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than six meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation pursuant to 32 V.S.A. § 1010 for no more than six meetings.

Sec. 22. APPROPRIATION TO EDUCATION FUND

There shall be transferred from the Supplemental Property Tax Relief Fund a sum of \$6,000,000.00 to the Education Fund.

Sec. 22a. EDUCATION ANALYST

The establishment of one (1) new classified position – Education Analyst – in the Agency of Education is authorized in fiscal year 2015 for the purpose of working across the Agency to create tools and indicators for use by education decision makers at the State and local level. The analyst will correlate and otherwise explore connections among the various areas of work within the Agency such as student test scores, attendance, graduation and continuation rates, demographics, district expenditures by category, and staffing patterns. The analyst will assist local and State level decision makers to assess the return on education dollars based on analysis of opportunities provided, cost-effectiveness, and outcomes for a given level of expenditure.

Sec. 22b. BUSINESS MANAGER HANDBOOK

The Agency of Education shall hire a contractor or contractors through the State's procurement process to develop an updated, more comprehensive, business manager handbook that consolidates all the information a business manager would need to perform his or her function in one reference document. This document should establish a uniform chart of accounts and financial reports that are GASB compliant, uniform business rules, a comprehensive section on federal funds and compliance, State funds and compliance, and a blank section for local board policies and internal procedures that each business manager can add to the State-issued handbook.

Sec. 22c. APPROPRIATION

The sum of \$82,500.00 is appropriated from the Supplement Property Tax Relief Fund in 32 V.S.A. § 6075 to the Agency of Education for the purpose of hiring the Education Analyst position in Sec. 22a of this act, and a sum of up to \$400,000.00 is appropriated from the Supplement Property Tax Relief Fund in 32 V.S.A. § 6075 to the Agency of Education to hire a contractor or contractors through the State's procurement process to develop the updated, more comprehensive, business manager handbook in Sec. 22b of this act.

Sec. 23. EDUCATION FINANCING REFORM

(a) By January 1, 2017, the General Assembly shall transition to a tax system for financing education in Vermont that incorporates an education income tax. This new education financing system shall have the following components:

(1) a property tax structured on the current homestead and nonresidential property categories, but with a much lower homestead property tax rate than set in current law;

(2) an education income tax structured as part of the current income tax system, paid by people who pay Vermont income taxes;

(3) the education income tax which shall be indexed to a taxpayer's federal adjusted gross income and shall be calculated by dividing the per-equalized-pupil amount of the district's education spending, divided by a

State base spending amount, multiplied by the statewide education income tax base rate, and then multiplied by the taxpayer's federal adjusted gross income;

(4) the education income tax which shall be incorporated into Vermont's current system for withholding and estimated tax payments; and

(5) adjustments for income sensitivity which shall be eliminated.

(b) It is the intent of the General Assembly to pass legislation in 2015 and 2016 to implement subsection (a) of this section so that the first year the education income tax would be in effect would be calendar year 2017, and the money raised would provide funding for schools in fiscal year 2018.

Sec. 24. TUITION REPORT

(a) The Agency of Education shall report to the General Assembly on the current system of setting, paying, and receiving school tuition in Vermont.

The report shall be submitted to the General Assembly no later than January 15, 2015.

(b) The report shall review:

(1) the historic practices of Vermont school districts in paying tuition to other schools;

(2) the current law and practices for establishing tuition rates, including how tuition is paid to different categories of schools inside Vermont and outside Vermont, and how Vermont schools set, receive, and use tuition from schools outside the State.

(c) The report shall examine the following issues:

- (1) the impact, if any, of tuition rates and practices on the Education Fund;
- (2) any effects that would result from establishing a uniform tuition rate to be paid for different categories of schools, both within and outside Vermont;
- (3) the impact, if any, of tuition payments on the number of students enrolled in Vermont schools.

Sec. 24a. 16 V.S.A. § 4028(d) is added to read:

(d) Notwithstanding 32 V.S.A. § 502(b)(2), the Joint Fiscal Office shall prepare a fiscal note for any legislation that requires a supervisory union or school district to perform any action with an associated cost, but does not provide money or a funding mechanism for fulfilling that obligation. Any fiscal note prepared under this subsection shall be completed no later than the date that the legislation is considered for a vote in the first committee to which it is referred.

* * * Repeals * * *

Sec. 25. REPEALS

- (a) 32 V.S.A. § 3802(18) (municipally owned lakeshore property) is repealed on January 1, 2015.
- (b) 2011 Acts and Resolves No. 162, Sec. D.103.1(a) is repealed.
- (c) 32 V.S.A. § 6075 is repealed on July 1, 2017.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

(a) This section and Secs. 13 (cross-reference), 14 (education taxes in Vernon), 16 (renter rebate report), 19 (Rainy Day Fund), 20 (Thetford), 21 (property tax appeals study), 22 (appropriation), 22a (education analyst), 22b (business manager handbook), 22c (appropriation), 23 (education reform), 24 (tuition report), 24a (fiscal note), and 25 (repeals) shall take effect on passage.

(b) Secs. 1 (statewide education tax base rates) and 2 (base education amount) shall take effect on passage and apply to education property tax rates and the base education amount for fiscal year 2015.

(c) Secs. 3 (applicable percentage) shall take effect on July 1, 2014 and apply to the Commissioner's recommendations beginning for fiscal year 2016.

(d) Sec. 4 (form of budget) shall take effect on January 1, 2015 and apply to budgets voted for fiscal year 2016.

(e) Sec. 5 (increased average daily membership) shall take effect on July 1, 2014 and shall apply to long-term membership calculations for fiscal year 2016 and after.

(f) Secs. 6 and 7 (small school spending) shall take effect on July 1, 2018 and apply to fiscal year 2019 and forward.

(g) Secs. 8 (town voted exemption) and 9 (education property tax exemption) shall take effect on January 1, 2015 and apply to property appearing on grand lists lodged in 2015 and after.

(h) Sec. 10 (occupancy of a homestead) shall take effect on January 1, 2015 and apply to homestead declarations for 2015 and after.

(i) Secs. 11 and 12 (anchoring excess spending) shall take effect on July 1, 2014 and apply to property tax calculations for fiscal year 2016 and after.

(j) Notwithstanding 1 V.S.A. § 214, Sec. 15 (allocable rent) shall take effect retroactively on January 1, 2014 and apply to claims filed in calendar year 2014 and after.

(k) Notwithstanding 1 V.S.A. § 214, Secs. 17 (housesite value) and 18 (adjustment limit) shall take effect retroactively on January 1, 2014 and apply to claims filed for fiscal year 2015.