



ACLU-VT Testimony on Act 46, Jan. 6, 2016, Allen Gilbert

Thank you for the opportunity to testify to the committee. I want to explain the ACLU-VT's position on the spending caps, and the reasons why I think you should take immediate action to abolish them. Our belief is the caps violate the principle established in the *Brigham* decision that all districts must have equal access to school funds. We have said that we will consider any requests for legal assistance from districts harmed by the provision. That remains our position.

I spent a good deal of time in the summer and fall of 2015 following the implementation of the law. It is clear that a major thrust of Act 46 -- efficiency and savings through consolidation -- has so far been successful. Many school districts are involved in merger discussions. It is a significant victory to have reached one of the goals of the legislation.

Less successful has been the act's effort to force immediate savings through the allowable growth rate provision of the bill. You saw projections yesterday that more than 100 districts could face tax penalties for exceeding their caps, adding a collective \$9.5 million to the tax bills of residents in those districts.

It was also unsettling to learn yesterday that the understanding of which expenses are exempt from calculating education spending may not be consistent on the part of education officials around the state.

And testimony suggested that the application of a .9-percentage increase in the caps (to offset unanticipated school health insurance premium increases) might introduce more inequity into the system.

It has become apparent to me as I've learned about the many consequences (intended and unintended) of the caps provision that it will be important to have district budgets, once completed by boards, scrutinized to ensure the budget numbers are accurate and produce the result a board wants. It's my understanding that many districts are planning to spend right up to their cap. An error or misunderstanding (of which expenses are exempt from spending, for example) could land a district in the provision's penalty zone, resulting in double taxation -- despite great efforts to avoid such an outcome.

Uncertainty about the caps provision seems to be increasing at a time when certainty is needed. Each day that goes by decreases the amount of time left before school budgets must be finalized and increases the chances of mistakes being made and new unintended consequences created.

The ACLU-VT feels that both for constitutional and policy reasons the spending caps provision should be repealed, and done so as quickly as possible. The caps are not working in the interests of Vermont schoolchildren and perhaps neither in the interests of taxpayers in a substantial number of towns.