

1 H.54

2 Introduced by Representatives Sibia of Dover, Colburn of Burlington,
3 Gannon of Wilmington, Marcotte of Coventry, Pajala of
4 Londonderry, Partridge of Windham, Sims of Craftsbury, Small
5 of Winooski, Campbell of St. Johnsbury, Christie of Hartford,
6 Donnally of Hyde Park, Elder of Starksboro, and Rogers of
7 Waterville

8 Referred to Committee on

9 Date:

10 Subject: Education; equalized pupils; weighted membership

11 Statement of purpose of bill as introduced: This bill proposes to implement the
12 recommendations in the Pupil Weighting Factors Report, commissioned by the
13 Generally Assembly, dated December 24, 2019, by adjusting the existing
14 weighting factors and adding new weighting factors that are used to calculate
15 equalized pupils while mitigating property tax rate increases that result from
16 these changes.

17 An act relating to adjusting the existing weighting factors, and adding new
18 weighting factors, used to calculate equalized pupils

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

2 * * * Weighted Membership Changes * * *

3 Sec. 1. FINDINGS AND PURPOSE

4 (a) The Vermont Supreme Court, in *Brigham v. State*, 166 Vt. 246 (1997),
5 held that education in Vermont is “a constitutionally mandated right” and that
6 to “keep a democracy competitive and thriving, students must be afforded
7 equal access to all that our educational system has to offer.” Therefore, the
8 Court held that in order to “fulfill its constitutional obligation the [S]tate must
9 ensure substantial equality of educational opportunity throughout Vermont.”

10 (b) The General Assembly reflected this holding in statute, 16 V.S.A. § 1,
11 that states that “the right to education is fundamental for the success of
12 Vermont’s children in a rapidly-changing society and global marketplace as
13 well as for the State’s own economic and social prosperity. To keep
14 Vermont’s democracy competitive and thriving, Vermont students must be
15 afforded substantially equal access to a quality basic education...it is the policy
16 of the State that all Vermont children will be afforded educational
17 opportunities that are substantially equal although educational programs may
18 vary from district to district.”

19 (c) Students come to school with dissimilar learning needs and
20 socioeconomic backgrounds that may require different types and levels of
21 educational support for them to achieve common standards or outcomes.

1 Similarly, schools in different contexts may also require different levels of
2 resources due to their scale of operations or the price they must pay for key
3 resources. Therefore, school districts with similar education property tax rates
4 may achieve significantly different student outcomes.

5 (d) Vermont applies weighting factors to its school district pupil count in
6 order to determine education property tax rates for each district. These
7 weighting factors are intended to reflect the resources required by a district to
8 educate students based on certain characteristics, such as students who are
9 from economically deprived backgrounds or students for whom English is not
10 their primary language.

11 (e) The application of these weighting factors results in an “equalized
12 pupil” count. A relatively higher equalized pupil count corresponds to
13 relatively lower education property tax rates for the district. This benefit
14 provides the district with greater taxing capacity that can be used to increase its
15 education spending, resulting in more resources to benefit students and
16 improve student outcomes.

17 (f) 2018 Acts and Resolves No. 173, Sec. 11 directed the Agency of
18 Education to study the efficacy of the current weighting factors and to consider
19 whether new weighting factors should be included in the equalized pupil count.

20 (g) On December 24, 2019, the Agency issued its Pupil Weighting Factors
21 Report (Report), which was produced by a University of Vermont-led team of

1 researchers. The Report found that neither the cost factors incorporated in the
2 weighting formula nor the values of the current weights reflect contemporary
3 educational circumstances and costs and that stakeholders viewed the existing
4 approach as “outdated.” The Report found that values for the existing weights
5 have weak ties, if any, with evidence describing differences in the costs for
6 educating students with disparate needs or operating schools in different
7 contexts and recommended that the General Assembly increase certain of the
8 existing weights and add certain new weighting factors.

9 (h) The purpose of this act is to correct for the fact that, for more than
10 20 years, the weighting formula has resulted in many of Vermont’s school
11 districts being overtaxed and underfunded, especially smaller and poorer
12 school districts, resulting in inequities for some of the State’s most vulnerable
13 children. This act is intended to fulfill Vermont’s constitutional mandate to
14 ensure that all students receive substantial equality of educational opportunity
15 throughout the State.

16 Sec. 2. 16 V.S.A. § 4010 is amended to read:

17 § 4010. DETERMINATION OF WEIGHTED MEMBERSHIP

18 (a) On or before the first day of December during each school year, the
19 Secretary shall determine the average daily membership of each school district
20 for the current school year. The determination shall list separately:

21 (1) resident prekindergarten children;

1 (2) resident students ~~being provided elementary or kindergarten~~
2 ~~education in kindergarten through grade five; and~~

3 (3) resident students ~~being provided secondary education in grades six~~
4 ~~through eight; and~~

5 (4) resident students in grades nine through 12.

6 (b) The Secretary shall determine the long-term membership for each
7 school district for each student group described in subsection (a) of this
8 section. The Secretary shall use the actual average daily membership over two
9 consecutive years, the latter of which is the current school year.

10 (c) The Secretary shall determine the weighted long-term membership for
11 each school district using the long-term membership from subsection (b) of
12 this section, ~~and~~ the following weights for each class, and the adjustments
13 under subsections (d) and (e) of this section, if applicable:

14 (i) ~~prekindergarten—0.46;~~

15 ~~Elementary or kindergarten 1.0~~

16 ~~Secondary 1.13~~

17 (ii) kindergarten through grade five—1.0;

18 (iii) grades six through eight—1.23; and

19 (iv) grades nine through 12—1.20.

20 (d)(1) The weighted long-term membership calculated under subsection (c)
21 of this section shall be increased for each school district to compensate for

1 additional costs imposed by students from economically deprived
2 backgrounds. The adjustment shall be equal to the total from subsection (c) of
3 this section, multiplied by ~~25 percent~~ 1.16, and further multiplied by the
4 poverty ratio of the district.

5 ~~(e)(2)~~ The weighted long-term membership calculated under subsection (c)
6 of this section shall be further increased by ~~0.2~~ 1.58 for each student in average
7 daily membership for whom English is not the primary language.

8 (e)(1) The weighted long-term membership calculated under subsection (c)
9 of this section shall be increased for differences in the cost of education
10 because of the higher cost of education in geographically isolated areas of the
11 State. The adjustment shall be equal to the total from subsection (c) of this
12 section, multiplied by:

13 (A) 0.23, where the number of persons per square mile in the school
14 district is 35 or fewer;

15 (B) 0.17, where the number of persons per square mile in the school
16 district is 36 or more but fewer than 56; or

17 (C) 0.11, where the number of persons per square mile in the school
18 district is 56 or more but fewer than 101.

19 (2) If the number of persons per square mile in a school district is 55 or
20 fewer, the weighted long-term membership calculated under subsection (c) of
21 this section shall be further increased for the additional cost of operating small

1 schools in geographically isolated areas of the State. The adjustment shall be
2 equal to:

3 (A) 0.26 multiplied by the number of students enrolled in a school in
4 the school district with a long-term membership of fewer than 100 students; or

5 (B) 0.12 multiplied by the number of students enrolled in a school in
6 the school district with a long-term membership of 100 or more but fewer than
7 251 students.

8 * * *

9 Sec. 2a. 16 V.S.A. § 4010 is amended to read:

10 § 4010. DETERMINATION OF WEIGHTED MEMBERSHIP

11 * * *

12 (d)(1) The weighted long-term membership calculated under subsection (c)
13 of this section shall be increased for each school district to compensate for
14 additional costs imposed by students from economically deprived
15 backgrounds. The adjustment shall be equal to the total from subsection (c) of
16 this section, multiplied by ~~1.16~~ 2.06, and further multiplied by the poverty ratio
17 of the district.

18 * * *

19 Sec. 2b. 16 V.S.A. § 4010 is amended to read:

20 § 4010. DETERMINATION OF WEIGHTED MEMBERSHIP

21 * * *

1 (2) For fiscal year 2024, by an amount equal to 50 percent of the
2 revenue raised due to the tax rate increase.

3 (3) For fiscal year 2025, by an amount equal to 25 percent of the
4 revenue raised due to the tax rate increase.

5 * * * Suspension of Excess Spending Penalty * * *

6 Sec. 4. SUSPENSION OF EXCESS SPENDING PENALTY; REPORT

7 (a) Notwithstanding any provision of law to the contrary, for fiscal
8 year 2022, the excess spending penalty under 16 V.S.A. § 4001(6)(B) and
9 32 V.S.A. § 5401(12) is suspended.

10 (b) On or before December 15, 2022, the Agency of Education and the
11 Department of Taxes shall report to the General Assembly regarding the effect
12 of the suspension of the excess spending penalty under subsection (a) of this
13 section. The Agency and the Department shall include in their report any
14 necessary recommendations for legislation.

15 * * * Preservation of Merger Incentives * * *

16 Sec. 5. MERGER INCENTIVES

17 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, and
18 2015 Acts and Resolves No. 46, each as amended, created incentives for
19 school districts that voluntarily merged. This act is not intended to, and shall
20 not, deprive any school district of any incentive for which it qualified under
21 those acts. Therefore, despite the effect of the amended and new weighting

1 factors under Sec. 2 of this act on property taxes, the limitations under those
2 acts on property tax increases and decreases remain in effect for those towns
3 that received that benefit under those acts.

4 * * * Repeal of Small School Grants * * *

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

6 § 4015. ~~SMALL SCHOOL SUPPORT~~

7 ~~(a) In this section:~~

8 ~~(1) "Eligible school district" means a school district that:~~

9 ~~(A) operates at least one school with an average grade size of 20 or~~
10 ~~fewer; and~~

11 ~~(B) has been determined by the State Board, on an annual basis, to be~~
12 ~~eligible due to either:~~

13 ~~(i) the lengthy driving times or inhospitable travel routes between~~
14 ~~the school and the nearest school in which there is excess capacity; or~~

15 ~~(ii) the academic excellence and operational efficiency of the~~
16 ~~school, which shall be based upon consideration of:~~

17 ~~(I) the school's measurable success in providing a variety of~~
18 ~~high quality educational opportunities that meet or exceed the educational~~
19 ~~quality standards adopted by the State Board pursuant to section 165 of this~~
20 ~~title;~~

1 ~~(II) the percentage of students from economically deprived~~
2 ~~backgrounds, as identified pursuant to subsection 4010(d) of this title, and~~
3 ~~those students’ measurable success in achieving positive outcomes;~~

4 ~~(III) the school’s high student to staff ratios; and~~

5 ~~(IV) the district’s participation in a merger study and~~
6 ~~submission of a merger report to the State Board pursuant to chapter 11 of this~~
7 ~~title or otherwise.~~

8 ~~(2) “Enrollment” means the number of students who are enrolled in a~~
9 ~~school operated by the district on October 1. A student shall be counted as one~~
10 ~~whether the student is enrolled as a full time or part time student.~~

11 ~~(3) “Two year average enrollment” means the average enrollment of the~~
12 ~~two most recently completed school years.~~

13 ~~(4) “Average grade size” means two year average enrollment divided by~~
14 ~~the number of grades taught in the district on October 1. For purposes of this~~
15 ~~calculation, kindergarten and prekindergarten programs shall be counted~~
16 ~~together as one grade.~~

17 ~~(5) “AGS factor” means the following factors for each average grade~~
18 ~~size:~~

19 ~~Average grade size~~

20 ~~More than: — but less than or equal to: Factor:~~

21 ~~0 7 0.19~~

1	7	9	0.175
2	9	10	0.16
3	10	11	0.145
4	11	12	0.13
5	12	13	0.115
6	13	14	0.10
7	14	15	0.085
8	15	16	0.070
9	16	17	0.055
10	17	-	0.040
11	18	19	0.025
12	19	20	0.015

13 ~~(6) "School district" means a town, city, incorporated, interstate, or~~
14 ~~union school district or a joint contract school established under chapter 11,~~
15 ~~subchapter 1 of this title.~~

16 ~~(b) Small schools support grant: Annually, the Secretary shall pay a small~~
17 ~~schools support grant to any eligible school district. The amount of the grant~~
18 ~~shall be the greater of:~~

19 ~~(1) the amount determined by multiplying the two year average~~
20 ~~enrollment in the district by \$500.00 and subtracting the product from~~
21 ~~\$50,000.00, with a maximum grant of \$2,500.00 per enrolled student; or~~

1 ~~(2) the amount of 87 percent of the base education amount for the current~~
2 ~~year, multiplied by the two-year average enrollment, multiplied by the AGS~~
3 ~~factor.~~

4 ~~(c) [Repealed.]~~

5 ~~(d) [Repealed.]~~

6 ~~(e) In the event that a school or schools that have received a grant under this~~
7 ~~section merge in any year following receipt of a grant, and the consolidated~~
8 ~~school is not eligible for a grant under this section or the small school grant for~~
9 ~~the consolidated school is less than the total amount of grant aid the schools~~
10 ~~would have received if they had not combined, the consolidated school shall~~
11 ~~continue to receive a grant for three years following consolidation. The amount~~
12 ~~of the annual grant shall be:~~

13 ~~(1) in the first year following consolidation, an amount equal to the~~
14 ~~amount received by the school or schools in the last year of eligibility;~~

15 ~~(2) in the second year following consolidation, an amount equal to two-~~
16 ~~thirds of the amount received in the previous year; and~~

17 ~~(3) in the third year following consolidation, an amount equal to one-~~
18 ~~third of the amount received in the first year following consolidation.~~

19 ~~[Repealed.]~~

1 Sec. 7. 16 V.S.A. § 4030 is amended to read:

2 § 4030. DATA SUBMISSION; CORRECTIONS

3 * * *

4 (b) The Secretary shall use data submitted on or before January 15 prior to
5 the fiscal year that begins the following July 1, in order to calculate the
6 ~~amounts~~ amount due each school district for any fiscal year for ~~the following:~~

7 (1) transportation aid due under section 4016 of this title; ~~and~~

8 (2) ~~the small school support grant due under section 4015 of this title.~~

9 * * *

10 Sec. 8. 16 V.S.A. § 1531 is amended to read:

11 § 1531. RESPONSIBILITY OF STATE BOARD

12 * * *

13 (c) For a school district that is geographically isolated from a Vermont
14 career technical center, the State Board may approve a career technical center
15 in another state as the career technical center that district students may attend.
16 In this case, the school district shall receive transportation assistance pursuant
17 to section 1563 of this title and tuition assistance pursuant to section 1561(c) of
18 this title. Any student who is a resident in the Windham Southwest
19 Supervisory Union and who is enrolled at public expense in the Charles H.
20 McCann Technical School or the Franklin County Technical School shall be
21 considered to be attending an approved career technical center in another state

1 pursuant to this subsection, and, if the student is from a school district eligible
2 for a small schools ~~support grant~~ weighting adjustment pursuant to section
3 ~~4015~~ 4010 of this title, the student's full-time equivalency shall be computed
4 according to time attending the school.

5 * * * Nonoperating School Districts * * *

6 Sec. 9. FINDINGS AND STATEMENT OF INTENT

7 (a) The weighting changes and new weights under Sec. 2 of this act are
8 designed to reflect the actual cost of educating students taking into account
9 student needs and the characteristics of their educational environments.
10 Nonoperating school districts pay tuition for their resident students to attend
11 schools. A nonoperating school district counts resident students toward its
12 equalized pupil count and receives a corresponding tax benefit. Unless the
13 tuition paid for a student by a nonoperating school district to a receiving school
14 district reflects the cost of educating that student, the amount of tax benefit to
15 the nonoperating school district and the amount of cost to educate the student
16 incurred by the receiving school district will not be equivalent, resulting in
17 inequity.

18 (b) The General Assembly intends that the tuition paid for a student by a
19 nonoperating school district to a receiving school district reflects the cost of
20 educating that student, and therefore in Sec. 10 of this act directs the Secretary
21 of Education to determine how best to achieve this goal.

1 Sec. 10. TUITION PAYMENTS; NONOPERATING SCHOOL DISTRICTS;
2 REPORT

3 On or before December 15, 2021, the Secretary of Education shall examine
4 and report to the House and Senate Committees on Education how the
5 Vermont statutes governing the payment of tuition by nonoperating school
6 districts should be amended to ensure that the tuition paid for a student by a
7 nonoperating school district to a receiving school district reflects the cost of
8 educating that student as reflected in the weight assigned to that student under
9 16 V.S.A. § 4010, as amended by this act.

10 * * * Report on Effect of Inequitable Pupil Weightings on
11 Property Taxes * * *

12 Sec. 11. EFFECT OF INEQUITABLE EQUALIZED PUPIL WEIGHTINGS
13 ON PROPERTY TAXES

14 On or before December 15, 2021, the Agency of Education, in collaboration
15 with the Joint Fiscal Office, shall calculate and report on the cumulative under-
16 and overtaxing that resulted from inequitable and inadequate student equalized
17 pupil weighting from 2000–2018, as reflected in the Pupil Weighting Factors
18 Report, dated December 24, 2019.

1 * * * Report on Effect of Inequitable Pupil Weightings on

2 Student Outcomes * * *

3 Sec. 12. EFFECT OF INEQUITABLE EQUALIZED PUPIL WEIGHTINGS
4 ON STUDENT OUTCOMES

5 On or before December 15, 2021, the Agency of Education shall identify
6 the costs in student outcomes related to inadequate funding through inequitable
7 and inadequate equalized pupil weights from 2000–2018, as reflected in the
8 Pupil Weighting Factors Report, dated December 24, 2019.

9 * * * Moratorium on Education Tax System Changes * * *

10 Sec. 13. MORATORIUM ON EDUCATION TAX SYSTEM CHANGES

11 The General Assembly intends that there be a moratorium on changes to the
12 education tax system until such time as the Pupil Weighting Factors Report,
13 dated December 24, 2019, has been fully considered and its recommendations
14 acted on by the General Assembly.

15 * * * Joint Legislative Education Oversight Committee * * *

16 Sec. 14. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE

17 (a) Creation. There is created the Joint Legislative Education Oversight
18 Committee. The Committee shall monitor, evaluate, research, oversee, and
19 provide a continuing review of matters concerning the implementation of the
20 weighting formula changes under this act and the related effects on student

1 equity and outcomes and on changes in education spending and education
2 property tax rates, both on the school district level and the State level.

3 (b) Membership. The Committee shall consist of six members who are
4 appointed biennially. The members shall be the Chair, or the Chair's designee,
5 of each of the following committees: The House and Senate Committees on
6 Appropriations and on Education, the House Committee on Ways and Means,
7 and the Senate Committee on Finance (House and Senate Committees).

8 (c) Powers and duties. In addition to the general duties of the Committee
9 as set forth in subsection (a) of this section, the Committee shall:

10 (1) review Joint Fiscal Office data on education budgets and education
11 tax rates;

12 (2) take testimony from the Vermont School Boards Association, the
13 Vermont Principals Association, the Vermont Superintendents Association, the
14 Vermont NEA, the Agency of Education, and other stakeholders as determined
15 by the Committee on the effects that result from the weighting formula
16 changes;

17 (3) assess the work of the Agency of Education in implementing the
18 weighing formula changes;

19 (4) at the request of any of the House or Senate Committees, research
20 and examine issues that may lead to future legislative action; and

1 (5) provide information and assistance to other legislative committees
2 on these matters.

3 (d) Officers. The Committee shall elect a chair, vice chair, and clerk from
4 among its members and shall adopt rules of procedure to perform its duties.
5 The members shall elect a member from the House of Representatives to serve
6 as its initial Chair. The Chair shall rotate biennially between the House and
7 Senate members, and a member from the other body shall serve as the Vice
8 Chair.

9 (e) Quorum and voting.

10 (1) A majority of the members of the entire Committee, whether
11 physically present at the meeting location or participating remotely, constitutes
12 a quorum for the purpose of discussing the business of the Committee or
13 voting to take action.

14 (2) A member of the Committee may vote on an action only if the
15 member is physically or electronically present at the meeting location.

16 (3) An action may be taken by the Committee only by assent of a
17 majority of the members attending and voting, assuming a quorum.

18 (f) Meetings. The Chair of the House Committee on Education shall call
19 the first meeting of the Joint Legislative Education Oversight Committee to
20 occur on or before October 1, 2022. The Committee shall meet twice per year
21 during each of fiscal years 2023–2028 at the call of the Committee’s Chair.

1 The Committee may meet more often subject to approval of the Speaker of the
2 House and the President Pro Tempore of the Senate. The Committee shall
3 cease to exist on May 15, 2028.

4 (g) Assistance. The Committee shall have the administrative, technical,
5 and legal assistance of the Office of Legislative Council and the Joint Fiscal
6 Office.

7 (h) Report. Notwithstanding 2 V.S.A. § 20(d), the Committee shall report
8 its activities at least annually to the General Assembly on or before each of
9 November 1, 2022, 2023, 2024, 2025, 2026, and 2027 together with any
10 recommendations for legislative or other action. The report shall be in brief
11 summary form.

12 (i) Compensation and reimbursement. For attendance at meetings during
13 adjournment of the General Assembly, a legislative member of the Committee
14 serving in his or her capacity as a legislator shall be entitled to per diem
15 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23.
16 These payments shall be made from monies appropriated to the General
17 Assembly.

18 (j) Appropriation. The sum of \$2,400.00 is appropriated to the General
19 Assembly from the General Fund in fiscal year 2022 for per diem
20 compensation and reimbursement of expenses for members of the Joint
21 Legislative Education Oversight Committee.

1 * * * Report on Programmatic Changes * * *

2 Sec. 15. REPORT ON PROGRAMMATIC CHANGES

3 (a) On or before August 31 of each of 2023–2027, each school district shall
4 report to the Agency of Education programmatic changes resulting from the
5 weighting formula changes under this act, including increases and decreases in
6 programmatic investments. This report shall compare these changes in
7 programmatic investments for the school year ending on June 30 of the year
8 the report is due compared with the school year ending on June 30 of the
9 previous year. The school district shall include this report in its annual report
10 to community members under subdivision (a)(2) of 16 V.S.A. § 165 (education
11 quality standards; equal educational opportunities; independent school meeting
12 education quality standards).

13 (b) The Agency of Education shall compile the results of the reports under
14 subsection (a) of this section into a single report, and, on or before September
15 30 of each of 2023–2027, shall submit that report to the Joint Legislative
16 Education Oversight Committee created under Sec. 14 of this act.

17 (c) The Joint Legislative Education Oversight Committee shall consider the
18 findings in this report and include it with the report to the General Assembly
19 under subsection 14(h) of this act, which is due on or before each of
20 November 1, 2023, 2024, 2025, 2026, and 2027.

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* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

Secs. 2, 3, 5–8, and 14–15 of this act shall take effect on July 1, 2022;

Sec. 2a shall take effect on July 1, 2023; Sec. 2b shall take effect on July 1,

2024; and Secs. 1, 4, 9–13, and this section shall take effect on passage.