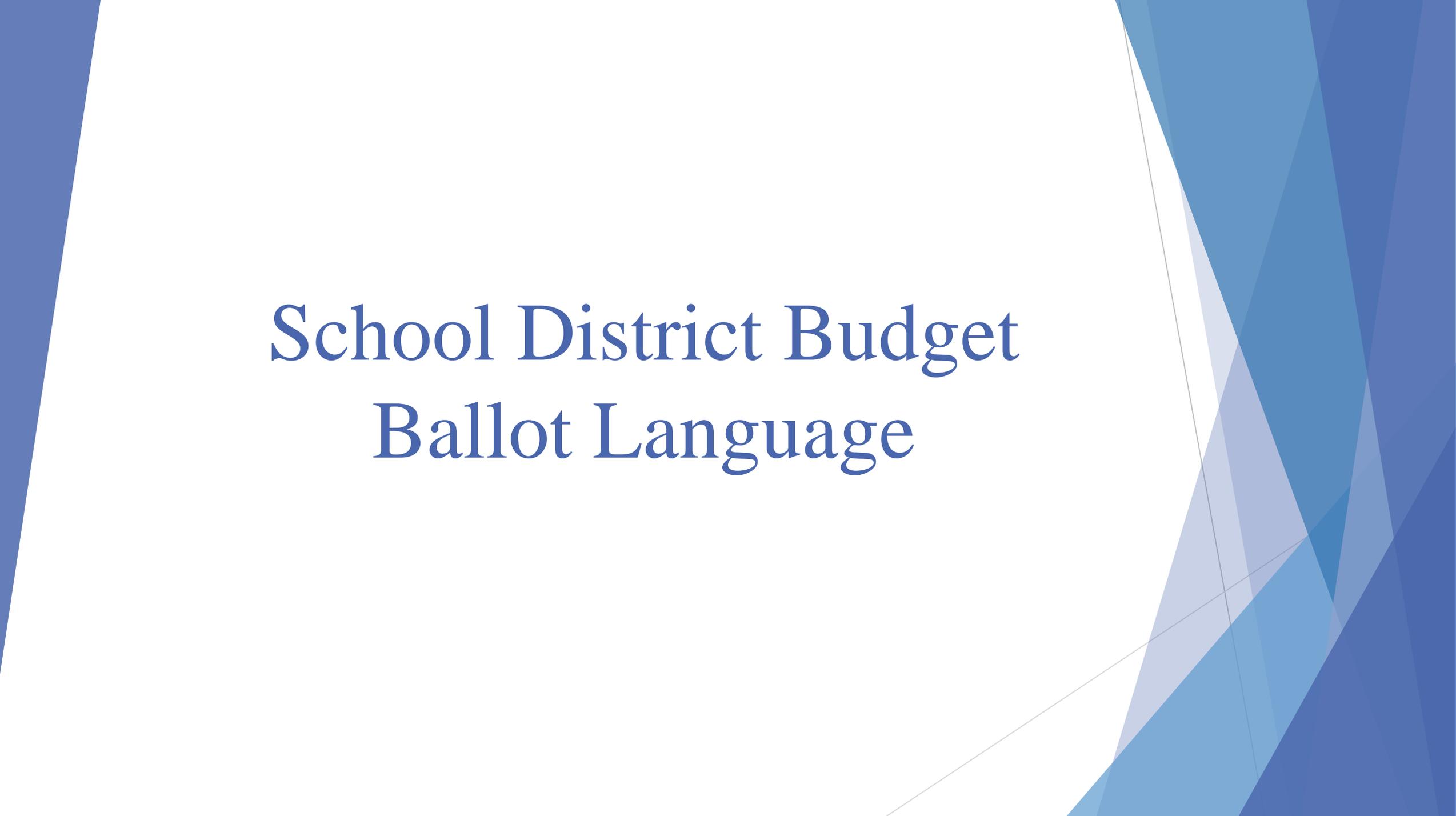


# School District Budget Ballot Language & Excess Spending Threshold

Beth St. James

Office of Legislative Counsel

April 4, 2024

The background features abstract, overlapping geometric shapes in various shades of blue, primarily on the right side, creating a modern, layered effect. The text is centered in a white space.

# School District Budget Ballot Language

## Current law

### ▶ 16 V.S.A. § 563(11)(D) (powers of school boards; budget)

(D) The board shall present the budget to the voters by means of a ballot in the following form:

“Article #1 (School Budget):

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? 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.

## ► 2003 Acts and Resolves No. 68, Sec. 48

Sec. 48. 16 V.S.A. § 563(11) is amended to read:

(11) 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. ~~Any proposed budget shall show all revenues and expenses, and shall state the specific amount of any deficit incurred in the most recently closed fiscal year and how the deficit was or will be remedied.~~ The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show the following information in a format prescribed by the commissioner of education:

(A) all revenues from all sources and expenses, including as separate items any assessment for a union school district or a supervisory union of which it is a member;

(B) the specific amount of any deficit incurred in the most recently closed fiscal year and how the deficit was or will be remedied;

(C) the anticipated homestead tax rate and the percentage of household income used to determine income sensitivity in the district as a result of passage of the budget; including those portions of the tax rate attributable to the union school and supervisory union assessments; and

(D) in the case of a school district other than a union school district, the definition of “education spending,” the number of pupils and number of equalized pupils in the school district, and the district’s education spending per equalized pupil in the proposed budget and in each of the prior three years; or

(E) in the case of a union school district, the amount of the assessment to each of the member districts and the amount of the assessments per equalized pupil in the proposed budget and for the past three years.

## ► 2007 Acts and Resolves No. 82, Sec. 5

Sec. 5. 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.

(B) If the proposed budget contains education spending in excess of the Maximum Inflation Amount, and the district's education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed was in excess of the statewide average district education spending per equalized pupil in that same fiscal year, as determined by the commissioner of education, then in lieu of any other statutory or charter form of budget adoption or budget vote, the board shall present the budget to the voters by means of a divided question, in the form of vote provided in subdivision (ii) of this subsection.

(i) "Maximum Inflation Amount" in this section means:

(I) the statewide average district education spending per equalized pupil, as defined in subdivision 4001(6) of this title, in the fiscal year preceding the year for which the budget is proposed, as determined by the commissioner of education, multiplied by the New England Economic Project Cumulative Price Index percentage change, as of November 15 preceding distribution of the proposed budget, for state and local government purchases of goods and services for the fiscal year for which the budget is proposed, plus one percentage point; plus the district's education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed, as determined by the commissioner of education;

(II) multiplied by the higher of the following amounts as determined by the commissioner of education:

(aa) the district's equalized pupil count in the fiscal year preceding the year for which the budget is proposed; or

(bb) the district's equalized pupil count in the fiscal year for which the budget is proposed.

(ii) Form of vote.

"School Budget Question #1:

Shall the voters of the School District approve a total budget in the amount of [\$ \_\_\_\_\_ ], which includes the Maximum Inflation Amount of education spending?

"School Budget Question #2:

If Question #1 is approved, shall the voters of the School District also approve additional education spending of [\$ \_\_\_\_\_ ]?"

\* \* \*

► 2009 Acts and Resolves No. 44, Sec. 6

Sec. 6. 16 V.S.A. § 563(11)(B)(ii) is amended to read:

(ii) ~~Form of vote.~~ The ballot shall be in the following form:

~~Shall the voters of the School District approve a total budget in the amount of [\$——], which includes the Maximum Inflation Amount of education spending?~~

~~If Question #1 is approved, shall the voters of the School District also approve additional education spending of [\$——]?”~~

“The total proposed budget of \$\_\_\_\_\_ is the amount determined by the school board to be necessary to support the school district’s educational program. State law requires the vote on this budget to be divided because (i) the school district’s spending per pupil last year was more than the statewide average and (ii) this year’s proposed budget is greater than last year’s budget adjusted for inflation.

“Article #1 (School Budget):

Part A. Shall the voters of the school district authorize the school board to expend \$\_\_\_\_\_, which is a portion of the amount the school board has determined to be necessary?

Part B. If Part A is approved by the voters, shall the voters of the school district also authorize the school board to expend \$\_\_\_\_\_, which is the remainder of the amount the school board has determined to be necessary?”

## ► 2015 Acts and Resolves No. 46, Sec. 33

Sec. 33. 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 Secretary.

(B) ~~If the proposed budget contains education spending in excess of the Maximum Inflation Amount, and the district's education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed was in excess of the statewide average district education spending per equalized pupil in that same fiscal year, as determined by the Secretary, then in lieu of any other statutory or charter form of budget adoption or budget vote, the board shall present the budget to the voters by means of a divided question, in the form of vote provided in subdivision (ii) of this subdivision (11)(B). [Repealed.]~~

\* \* \*

(D) The board shall present the budget to the voters by means of a ballot in the following form:

“Article #1 (School Budget):

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? 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.

▶ 2022 Acts and Resolves No. 127, Sec. 8 (c)

(c) Suspension of ballot language requirement. Notwithstanding 16 V.S.A. § 563(11)(D), which requires specified language for a school budget ballot, this requirement is suspended during fiscal years 2025–2029.

▶ 2023 Acts and Resolves No. 1, Sec. 3

Sec. 3. SUSPENSION OF SCHOOL BUDGET BALLOT LANGUAGE REQUIREMENT

Notwithstanding 16 V.S.A. § 563(11)(D), which requires a school board to use specified language for a school budget ballot, the ballot language requirement is suspended during the years 2023 and 2024.

# Excess Spending Penalty

## Current law

### ▶ 32 V.S.A. § 5401(12) & (13)

(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 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 2015 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 2015 through the fiscal year for which the amount is being determined.

(13)(A) “Education property tax spending adjustment” means the greater of one or a fraction in which the numerator is the district’s per pupil education spending plus excess spending for the school year, and the denominator is the property dollar equivalent yield for the school year, as defined in subdivision (15) of this section.

(B) “Education income tax spending adjustment” means the greater of one or a fraction in which the numerator is the district’s per pupil education spending plus excess spending for the school year, and the denominator is the income dollar equivalent yield for the school year, as defined in subdivision (16) of this section.

## Current law

### ► 16 V.S.A. 4001(6)(B) (definition of education spending)

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

(i) Spending during the budget year for:

(I) approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt, provided the district shall not be reimbursed or otherwise receive State construction aid for the approved school capital construction; or **(2009)**

(II) spending on eligible school capital project costs pursuant to the State Board of Education’s Rule 6134 for a project that received preliminary approval under section 3448 of this title. **(2021)**

(ii) For a project that received final approval for State construction aid under chapter 123 of this title: **(2009)**

(I) spending for approved school capital construction during the budget year that represents the district’s share of the project, including interest paid on the debt; or

(II) payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving State aid for the project.

(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the State Board of Education, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title. **(2011)**

(iv) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools. **(2009)**

(v) Spending attributable to the district’s share of special education spending that is not reimbursed as an extraordinary reimbursement under section 2962 of this title for any student in the fiscal year occurring two years prior. **(2011/2017)**

(vi) A budget deficit in a district that pays tuition to a public school or an approved independent school, or both, for all of its resident students in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed. **(2011)**

(vii) For a district that pays tuition for all of its resident students and into which additional students move after the end of the census period defined in subdivision (1)(A) of this section, the number of students that exceeds the district’s most recent average daily membership and for whom the district will pay tuition in the subsequent year multiplied by the district’s average rate of tuition paid in that year. **(2011)**

(viii) Tuition paid by a district that does not operate a school and pays tuition for all resident students in kindergarten through grade 12, except in a district in which the electorate has authorized payment of an amount higher than the statutory rate pursuant to subsection 823(b) or 824(c) of this title. **(2012)**

(ix) The assessment paid by the employer of teachers who become members of the State Teachers’ Retirement System of Vermont on or after July 1, 2015, pursuant to section 1944d of this title. **(2014)**

(x) School district costs associated with dual enrollment and early college programs. **(2016)**

(xi) Costs incurred by a school district or supervisory union when sampling drinking water outlets, implementing lead remediation, or retesting drinking water outlets as required under 18 V.S.A. chapter 24A. **(2019)**

▶ 1997 Acts and Resolves No. 60, Sec. 18

- ▶ Added 16 V.S.A. chapter 133, State and Local Funding of Public Education and created the Education Fund

▶ 2003 Acts and Resolves No. 68, Sec. 3

- ▶ **Added** definitions for “excess spending” and “district spending adjustment” to 32 V.S.A. § 5401

- ▶ (12) “Excess spending” means the per-equalized pupil amount of the district’s education spending minus the portion of education spending which is approved school capital construction spending; in excess of 125 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

- ▶ (13) “District spending adjustment” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the base education payment for the school year, as defined in section 4001 of Title 16.

▶ [2005 Acts and Resolves No. 38, Sec. 24](#)

Sec. 24. 32 V.S.A. § 5401(12) is amended to read:

(12) “Excess spending” means:

(A) the per-equalized pupil amount of

(i) the district’s education spending, plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b); minus

(ii) the portion of education spending which is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs;

(B) in excess of 125 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

▶ [2006 Acts and Resolves No. 182, Sec. 10](#)

Sec. 10. 32 V.S.A. § 5401(12) is amended to read:

(12) “Excess spending” means:

(A) the per-equalized pupil amount of:

(i) the district’s education spending, plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b); minus

(ii) the portion of education spending which is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to 16 V.S.A. § 827 for capital construction costs by the independent school which has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to 16 V.S.A. § 3448(a)(2);

(B) in excess of 125 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

## ▶ 2007 Acts and Resolves No. 66, Sec. 25

Sec. 25. 32 V.S.A. § 5401(12) is amended to read:

(12) “Excess spending” means:

(A) the ~~per-equalized~~ per equalized pupil amount of:

- (i) the district’s education spending, plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b); minus
- (ii) the portion of education spending which is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to 16 V.S.A. § 827 for capital construction costs by the independent school which has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to 16 V.S.A. § 3448(a)(2); and minus
- (iii) a budget deficit in a district that pays tuition to a public school for all of its students in one or more grades in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed; (\*redesignated as (iv))

\* \* \*

## ▶ 2007 Acts and Resolves No. 82, Sec. 21

Sec. 21. 32 V.S.A. § 5401(12) is amended to read:

(12) “Excess spending” means:

(A) the per-equalized pupil amount of:

- (i) the district’s education spending, plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b); minus
- (iii) the portion of education spending attributable to the district’s share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior;

\* \* \*

▶ 2009 Acts and Resolves No. 44, Sec. 20

- ▶ Amended the definition of “education spending” in 16 V.S.A. § 4001(6) to:
  - ▶ (A) exclude certain costs or expenses from education spending when determining if a proposed budget shall be presented by means of divided question; and
  - ▶ (B) exclude certain costs or expenses from education spending for the purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12)

## ► 2011 Acts and Resolves No. 45, Sec. 13c

Sec. 13c. 32 V.S.A. § 5401(12) is amended to read:

(12) “Excess spending” means:

(A) the per equalized pupil amount of:

(i) 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);

~~minus~~

~~(ii) the portion of education spending which is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to 16 V.S.A. § 827 for capital construction costs by the independent school which has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to 16 V.S.A. § 3448(a)(2); and minus~~

~~(iii) the portion of education spending attributable to the district’s share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior; and minus~~

~~(iv) a budget deficit in a district that pays tuition to a public school for all of its students in one or more grades in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed;~~

\* \* \*

## ► 2011 Acts and Resolves No. 45, Sec. 13d

Sec. 13d. 16 V.S.A. § 4001(6) is amended to read:

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) which is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fund raising, federal funds, nongovernmental grants, or other state funds such as special education funds paid under chapter 101 of this title.

\* \* \*

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

\* \* \*

(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title.

(iv) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.

(v) Spending attributable to the district’s share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior.

(vi) A budget deficit in a district that pays tuition to a public school or an approved independent school or both for all of its resident students in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed.

(vii) For a district that pays tuition for all of its resident students and into which additional students move after the end of the census period defined in subdivision (1)(A) of this section, the number of students that exceeds the district’s most recent average daily membership and for whom the district will pay tuition in the subsequent year multiplied by the district’s average rate of tuition paid in that year.

► 2013 Acts and Resolves No. 60, Secs. 1 & 2

Sec. 1. 32 V.S.A. § 5401(12) is amended to read: *(applied to budgets in FY 2015)*

(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 **125 123** percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the ~~commissioner of education~~ Secretary of Education on or before November 15 of each year based on the passed budgets to date.

Sec. 2. 32 V.S.A. § 5401(12) is amended to read: *(applied to budgets in FY 2017+)*

(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 in the prior fiscal year, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date.

## ► 2014 Acts and Resolves No. 174, Secs. 59

Sec. 59. 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. *\*\*\*amended to year 2015 in 2016 Acts and Resolves No. 134*

▶ 2015 Acts and Resolves No. 46

- ▶ Sec. 27: Added definition of “education income tax spending adjustment” to 32 V.S.A. § 5401(13)
- ▶ Sec. 34: Repealed 16 V.S.A. § 4001(6)(A) (divided vote; exceptions to education spending) (*see slide 5*)

▶ 2015 Acts and Resolves No. 46, Sec. 37 as amended by 2016 Acts and Resolves No. 65, Sec. 1

- ▶ Changed the way excess spending was calculated for fiscal year 2017 only (allowable growth in education spending)

▶ 2022 Acts and Resolves No. 127

- ▶ Sec. 28: conforming amendments to 32 V.S.A. § 5401(13)
- ▶ Sec. 8(a): suspension of excess spending penalty during fiscal years 2024-2029