

Excess Spending 101

Beth St. James
Legislative Counsel
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32 V.S.A. § 5401(12)* defines excess spending as:

- ▶ (A) The per pupil spending 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 118 percent of the statewide average district per pupil education spending 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 per pupil education spending for fiscal year 2025 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 2025 through the fiscal year for which the amount is being determined.

32 V.S.A. § 5401(13)(A) defines the “education property tax

spending adjustment” as 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 of the school year.

*As amended by [2024 Acts and Resolves No. 183, Sec. 18](#)

16 V.S.A. § 4001(6)* defines education spending as:

- ▶ The amount of the school district budget, any assessment for a joint contract school, career 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) that 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 fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.
 - ▶ (B) For all bonds approved by voters prior to July 1, 2024, voter-approved bond payments toward principal and interest shall not be included in “education spending” for purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12).

*As amended by [2024 Acts and Resolves No. 183, Sec. 20](#)

24 V.S.A. § 2408 addresses how money in a capital reserve fund are factored into excess spending calculations:

▶(a) At an annual or special meeting duly warned, a municipality may establish a reserve fund to be under the control and direction of the legislative branch of the municipality. The reserve fund shall be kept in a separate account and invested as are other public funds and may be expended for such purposes for which established, or when authorized by a majority of the voters present and voting at an annual or special meeting duly warned, for other purposes.

▶(b) If a reserve fund is established under subsection (a) of this section to pay a school district's future school capital construction costs approved under 16 V.S.A. chapter 123, any funds raised by the district as part of its education spending to pay for those future costs shall be considered "approved school capital construction spending" in calculating excess spending under 32 V.S.A. § 5401(12). Districts shall submit to the Agency of Education annually a report of deposits into and expenditures from a school capital construction reserve fund. If the Agency of Education determines that any amount in the reserve fund has not been used for approved school capital construction within five years after deposit into the fund, then 150 percent of that amount shall be added to the district's education spending in the then-current year for purposes of calculating the excess spending penalty. The definitions in 16 V.S.A. chapter 133 shall apply to this subsection.

How is an excess spending penalty calculated?

1. The excess spending threshold is calculated. If a school district's per pupil education spending, as calculated below, falls below this number, there is no penalty.

$$\text{average statewide PPES} \times 118\% \times \text{NEEP} = \text{threshold}$$

2. For the purposes of calculating whether a district is subject to an education property tax spending adjustment (excess spending penalty), 150% of the funds in a capital reserve account established pursuant to 24 V.S.A. § 2804, that are more than 5-years old and that were previously excluded from excess spending calculations, are added to the district's education spending, and exemptions are subtracted. That total amount is divided by the district's LTWADM to determine the district's per pupil education spending for the purpose of determining excess spending.

$$\frac{\text{ed spending} + 150\% \text{ of capital reserve } \$ - \text{exemptions}}{\text{LTWADM}}$$

3. If a district spends more per-pupil (as calculated above in #2) than the threshold, the amount spent over the threshold is counted twice in the district's per-pupil education spending for the purpose of determining its tax rate. This effectively double taxes every dollar in excess of the threshold.

$$\frac{\text{per pupil education spending} + \text{PPES over the threshold (as calculated in \#2)}}{\text{property yield}} = \text{tax rate}$$

- ▶ For example, if a district spends \$18,500 per pupil, and excess spending threshold is \$18,000, the \$500 overage will be double counted, bringing the district's per-pupil education spending (for tax rate purposes) to \$19,000.

$$\frac{\$18,500 + \$500}{\text{property yield}} = \text{tax rate}$$

What about exemptions?

- ▶ 2024 Acts and Resolves No. 183, Sec. 20 repealed all exemptions in place prior to July 1, 2024, and added one new exemption that went into effect on July 1, 2024:
 - ▶ If a bond was approved by voters prior to July 1, 2024, the voter-approved bond payments toward principal and interest are not included in “education spending” for purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12).
- ▶ This means that if a bond was **not** approved by voters prior to **July 1, 2024**, bond payments toward principal and interest **will be included** in a district’s education spending when determining whether the district will be subject to an education property tax spending adjustment.
- ▶ If an exemption is applicable, it only decreases the amount that is double taxed, not the district’s overall education spending.

Exemptions prior to July 1, 2024

▶ 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)**