

**No. 153. An act relating to voluntary school district merger, virtual merger, supervisory union duties, and including secondary students with disabilities in senior year activities and ceremonies.**

(H.66)

Sec. 1. FINDINGS

The general assembly finds that:

- (1) the voluntary merger of Vermont's education governing units will support:
  - (A) increased educational opportunities for all students, including the effective use of technology to expand those opportunities;
  - (B) increased economies of scale;
  - (C) enhanced cost efficiencies available in personnel assignment and the management of resources, particularly at a time when many districts are experiencing declining enrollment;
- (2) providing incentives, technical assistance, and statutory changes to encourage voluntary merger of school districts will allow governance changes to occur while preserving the authority of voters to make local decisions that are appropriate for their communities; and
- (3) the voluntary merger of Vermont's education governing units:
  - (A) will assist schools and education governing units to obtain meaningful, standardized metrics for evaluating programs; comparing local,

national, and international student data; assessing and identifying system improvements; and analyzing the costs and benefits of resource allocations;

(B) provides voters opportunities to make local decisions regarding school choice and other enrollment options, in Vermont public schools and in approved independent schools, that are appropriate for their communities;

(C) recognizes school choice as a significant part of the Vermont elementary and secondary system as it currently exists and as it will continue to exist as changes to the structure are made in the future; and

(4) encouraging education governing units to enter into contracts to share administrative, educational, technical, labor, and material resources, which may be considered to be “virtual mergers,” will also assist the governing units to reduce costs, to improve educational outcomes, and to eliminate barriers to increased efficiency.

\* \* \* School District Merger Incentive Program \* \* \*

## Sec. 2. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under that section by the merger of districts that provide education by paying tuition. Incentives shall be available, however, only if the effective date of merger is on or before July 1, 2017.

(b) Board discussion. On or before December 1, 2010, the board of each supervisory union in the state shall discuss, and the board of every school district may discuss, whether it wishes to explore the merger of districts within the supervisory union or with one or more districts outside of the supervisory union, or both under the terms of this act.

(c) Board vote. On or before October 1, 2012, each supervisory union board shall vote whether to perform a more comprehensive analysis of potential merger, and shall report the results of its vote to the commissioner of education and the voters of each member school district.

Sec. 3. VOLUNTARY SCHOOL DISTRICT MERGER INCENTIVE  
PROGRAM

(a) Size.

(1) School districts, which may include one or more union school districts, may merge to form a union school district pursuant to chapter 11 of Title 16 (a “Regional Education District” or “RED”) that shall have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both.

(2) School districts interested in merger may request the state board of education to grant them a waiver from the requirements of subdivision (1) of this subsection, which shall be granted if the districts can demonstrate that the requirements would not be cost-effective, would decrease educational

opportunities, or would diminish student achievement, or any combination of these.

(b) Elementary and Secondary Education.

(1) A RED formed under this act shall provide for the education of its resident students by operating one or more public schools offering elementary and secondary education.

(2) If they comply with all other provisions of this act, then notwithstanding subdivision (1) of this subsection, school districts that do not operate secondary schools may merge to form a RED, operate as a K–12 district, and receive the incentives in Sec. 4 of this act if the proposed RED operates one or more schools offering at least kindergarten through grade 6 for the resident students in those grade and implements one of the following options:

(A) The RED designates either a Vermont public school outside the district or a Vermont approved independent school located inside or outside the district as the sole public secondary school of the RED pursuant to the provisions of 16 V.S.A. § 827.

(B) The RED provides for the education of students in all grades for which it does not operate a school by paying tuition pursuant to 16 V.S.A. § 824, provided that the RED will neither operate a school offering the grades for which it pays tuition nor designate a school that offers those grades.

(3) If they comply with all other provisions of this act, then notwithstanding subdivision (1) of this subsection, school districts that do not operate any schools may merge to form a RED, operate as a K–12 district, and receive the incentives in Sec. 4 of this act if the proposed RED provides for the education of students in all grades by paying tuition pursuant to 16 V.S.A. § 824, provided that the RED will neither operate a school offering the grades for which it pays tuition nor designate a school that offers those grades.

(c) Supervisory unions and supervisory districts.

(1) School districts that merge to form a RED do not need to be members of the same supervisory union prior to merger.

(2) Upon merger, the state board of education shall assign the RED to a supervisory union or determine that the RED will operate as a supervisory district. In addition, the state board shall assign any district or districts in the original supervisory union or unions that did not merge into the RED to one or more supervisory unions; provided, however, a district may request placement within a specified supervisory union pursuant to 16 V.S.A. § 261(b).

(d) Operation of schools. A RED shall not close any school within its boundaries during the first four years after the effective date of merger unless the electorate of the town in which the school is located consents to closure. The participating districts' plan of merger may include processes governing the manner in which the RED may close schools after the fourth year.

(e) Local participation. Because the RED shall be governed by one board, the plan for merger presented to the electorate for approval under chapter 11 of Title 16 shall include structures and processes that provide opportunities for local participation in the creation of RED policy and budget development.

(f) Enrollment options. The plan for merger presented to the electorate for approval shall include whether and to what extent elementary and secondary students residing within the RED may enroll in any school the RED operates, provided:

(1) a RED that operates or designates a secondary school shall comply with regional high school choice provisions of 16 V.S.A. § 1622;

(2) each RED shall provide, or provide access to, secondary technical education for students residing within its boundaries;

(3) if the approved merger plan provides fewer options to the students in one or more of the merging districts than they have prior to merger, then the RED shall pay tuition to a school pursuant to the provisions of 16 V.S.A. §§ 823 and 824 for any resident student who resided in one of those districts and was enrolled in the school at public expense at the time of merger, even if the approved merger plan does not otherwise require the RED to pay tuition to that school; and

(4) if a RED is created pursuant to subdivision (b)(2) or (b)(3) of this section and provides for the education of resident secondary students by paying

tuition, and if after the effective date of merger the RED electorate is asked to vote on a proposal to limit enrollment options in those grades, then the proposed amendment, as with any change to a specific term of a merger agreement, shall be affirmed or rejected by the voters of each member town pursuant to 16 V.S.A. § 706n(a).

(g) Employment and labor relations. On the first day of its existence, the RED shall:

(1) assume the obligations of individual employment contracts between the participating districts and their bargaining unit employees;

(2) assume the collective bargaining agreements between the participating districts and their respective representative organizations, including any provisions that address the transition to the RED, until such time as it reaches its own agreement with teachers and administrators under 16 V.S.A. § 2005, and with other employees under 21 V.S.A. § 1725(a);

(3) recognize the representatives of the employees of the former member districts as the recognized representatives of the employees of the RED;

(4) ensure that an employee of the former member district who is not a probationary employee shall not be considered a probationary employee of the RED; and

(5) have reached an agreement with the recognized representatives of the employees, effective on the first day of the RED's existence, regarding how to address issues of seniority, reduction in force, layoff, and recall prior to reaching its first collective bargaining agreement with its employees.

(h) Cost-benefit analysis. School districts shall conduct a cost-benefit analysis as part of their merger planning. The plan for merger submitted to the state board of education pursuant to 16 V.S.A. § 706c and presented to the voters for approval shall identify cost efficiencies and improved educational outcomes that will result from merger in order to demonstrate a rational basis for the decision to merge and shall outline and, to the extent possible, document projected:

- (1) real dollar efficiencies;
- (2) operational efficiencies;
- (3) expanded student learning opportunities; and
- (4) improved student outcomes.

(i) Qualification. No individual entitlement or private right of action is created by Secs. 2 through 4 of this act.

#### Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

(a) Equalized homestead property tax rates.

(1)(A) Subject to the provisions of subdivision (2) of this subsection and notwithstanding any other provision of law, the RED's equalized homestead property tax rate shall be

(i) decreased by \$0.08 in the first year after the effective date of merger;

(ii) decreased by \$0.06 in the second year after the effective date of merger;

(iii) decreased by \$0.04 in the third year after the effective date of merger; and

(iv) decreased by \$0.02 in the fourth year after the effective date of merger.

(B) The household income percentage shall be calculated accordingly.

(2) During the years in which a RED's equalized homestead property tax rate is decreased pursuant to this subsection, the rate for each town within the RED shall not increase or decrease by more than five percent in a single year. The household income percentage shall be calculated accordingly.

(3) On and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the RED for purposes of determining the homestead property tax rate for each town.

(b) Capital debt service. Beginning in fiscal year 2018, and notwithstanding any other provision of law, the commissioner annually shall reimburse from the education fund the amount of interest paid in the prior year by a RED to its lender on borrowing in anticipation of any state school construction aid that was owed to a merging member of the RED as of the effective date of this act and has not been paid to the RED by the state as of July 1, 2016.

(c) Sale of school buildings. Subject to the provisions of Sec. 3(d) of this act:

(1) if a RED closes a school building and sells the school building, or an energy saving measure within it as contemplated in 16 V.S.A. § 3448f(g), then neither the RED nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to chapter 123 of Title 16; and

(2) if a participating district retains ownership of and closes a school building as part of the electorate-approved plan for merger and the participating district sells the school building or energy saving measure associated with the building, then neither the district nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to chapter 123 of Title 16.

(d) Merger support grant. If the merging districts of a RED included at least one “eligible school district,” as defined in 16 V.S.A. § 4015, that had

received a small school support grant under section 4015 in the fiscal year two years prior to the first fiscal year of merger, then the RED shall be eligible to receive a merger support grant in each of its first five fiscal years in an amount equal to the small school support grant received by the eligible school district in the fiscal year two years prior to the first fiscal year of merger. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in the fiscal year two years prior to the first fiscal year of merger.

(e) Consulting services reimbursement grant. From the education fund, the commissioner of education shall pay up to \$20,000.00 to the merger study committee established under 16 V.S.A. § 706 to reimburse the participating districts for legal and other consulting fees necessary for the analysis and report required by 16 V.S.A. § 706b. The study committee shall forward invoices to the commissioner on a quarterly basis. The commissioner shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon completion of the final report, provided that no payment shall cause the total amount paid to exceed the \$20,00.00 limit. In addition, any facilitation grant funds paid to the RED pursuant to Sec. 5 of this act shall be reduced by the total amount of funds provided under this subsection (e).

(f) Multiyear budgets.

(1) In addition to the option of proposing a single-year budget on an annual basis pursuant to the provisions of chapter 11 of Title 16 and notwithstanding any other provision of law, a RED formed pursuant to Secs. 2 and 3 of this act shall also have the option to propose one or both of the following:

(A) A multiyear budget for the first two fiscal years of its existence that will be included as part of the plan that must be approved by the electorate in order to create the RED.

(B) A multiyear budget for the third and fourth fiscal years of its existence that is presented to the electorate for approval at the RED's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the RED may contain a provision authorizing the RED, beginning in the fifth fiscal year of its existence to present multiyear proposed budgets to the electorate once in every two or three years.

(g) Recent merger. If the Addison Northwest Unified Union School District becomes a body corporate and politic on or before July 1, 2010, then the merged district shall be entitled to receive any of the benefits set forth in this section that it elects and is otherwise eligible to receive if, on or before July 1, 2011:

(1) it notifies the commissioner of its election; and

(2) it provides the commissioner with a cost-benefit analysis as required by Sec. 3(h) of this act.

Sec. 5. Sec. 168a of No. 122 of the Acts of the 2003 Adj. Sess. (2004) as amended by Sec. 23 of No. 66 of the Acts of 2007 is amended to read:

Sec. 168a. SCHOOL DISTRICT CONSOLIDATION; TRANSITION AID;

APPROPRIATION SUNSET

(a) After voter approval of the establishment of a union, unified union, or interstate school district, the commissioner of education shall pay to the board of the union, unified union, or interstate school district a facilitation grant of five percent of the base education ~~payment~~ amount in 16 V.S.A. § 4001(13) based on the combined enrollment of the participating districts on October 1 of the year in which the successful vote was taken or \$150,000.00, whichever is less, from the education fund. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(b) This section shall sunset on June 30, ~~2010~~ 2014.

Sec. 6. STUDY; TUITION VOUCHERS

The commissioner of education shall request the Regional Education Laboratory Northeast and Islands (REL-NEI) to research, analyze and, on or before January 15, 2011, report to the senate and house committees on education, the senate committee on finance, and the house committee on ways

and means regarding the fiscal impacts on the education fund, the general fund, property tax rates, and school budgets as well as the effects on educational outcomes if the state were to make tuition vouchers available to all Vermont students. The report shall include a summary of peer-reviewed research, with particular emphasis on research related to Vermont or other demographically or geographically similar states. Areas of inquiry shall include student achievement, property values, special education services, transportation, income levels served, community involvement, and social and economic stratification, if any.

#### Sec. 7. MERGER TEMPLATE

After reviewing existing models, the department of education shall develop a merger template to assist study committees formed pursuant 16 V.S.A. § 706 to consider the advisability of and prepare a proposal for merger. Among other things, the template shall provide data regarding the enrollment and finances of the participating school districts and demographic statistics. It shall also outline common issues considered by districts exploring merger and provide links to related resources. The department shall publish the template on its website on or before December 15, 2010.

Sec. 8. REPORTS; EFFECTS OF MERGER; RECOMMENDATIONS

(a) On or before January 15, 2011, and in every January thereafter through 2018, the commissioner shall report to the house and senate committees on education regarding the status of merger discussions and votes.

(b) The James M. Jeffords Center of the University of the Vermont, the department of education, and school districts participating in the voluntary merger process authorized by this act shall collaborate to study:

(1) data and comments from school districts and supervisory unions statewide that are discussing voluntary merger;

(2) the results of local district elections to approve voluntary merger under the provisions of this act; and

(3) in connection with USDs that are formed under the provisions of this act:

(A) real dollar efficiencies realized;

(B) operational efficiencies realized;

(C) changes in student learning opportunities; and

(D) changes in student outcomes.

(c) On or before January 15, 2018, the James M. Jeffords Center and the department of education shall present a final report concerning the study required in subsection (b) of this section, including recommendations to the house and senate committees on education regarding what further actions, if

any, should be pursued to encourage or require merger by nonparticipating school districts, and shall provide interim reports in each January until that date.

\* \* \* Virtual Merger; Supervisory Unions; Superintendents;

Class Sizes \* \* \*

Sec. 9. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

(1) ~~set policy to coordinate curriculum plans among the sending and receiving schools in that supervisory union~~ establish a supervisory union-wide curriculum, by either developing the curriculum or assisting the member districts to develop it jointly, and ensure implementation of the curriculum.

The curriculum ~~plans~~ shall meet the requirements adopted by the state board under subdivision 165(a)(3)(B) of this title;

(2) ~~take reasonable steps to~~ assist each school in the supervisory union to follow ~~its respective~~ the curriculum ~~plan~~ as adopted under the requirements of the state board pursuant to subdivision 165(a)(3)(B) of this title;

(3) if students residing in the supervisory union receive their education outside the supervisory union, periodically review the compatibility of the supervisory union's curriculum ~~plans~~ with those other schools;

(4) in accordance with criteria established by the state board, establish and implement a plan for receiving and disbursing federal and state funds distributed by the department of education, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965 as amended;

(5) ~~provide for the establishment of a written policy on professional development of teachers employed in the supervisory union and periodically review that policy. The policy may~~ professional development programs or arrange for the provision of them, or both, for teachers, administrators, and staff within the supervisory union, which may include programs offered solely to one school or other component of the entire supervisory union to meet the specific needs or interests of that component; a supervisory union has the discretion to provide financial assistance outside the negotiated agreements for teachers' professional development activities and may require the superintendent periodically to develop and offer professional development activities within the supervisory union;

(6) ~~provide or, if agreed upon by unanimous vote at a supervisory union meeting, coordinate provision of the following educational services on behalf of member districts:~~

~~(A) special education;~~

~~(B) except as provided in section 144b of this title, compensatory and remedial services; and~~

~~(C) other services as directed by the state board and local boards~~  
provide special education services on behalf of its member districts and, except as provided in section 144b of this title, compensatory and remedial services, and provide or coordinate the provision of other educational services as directed by the state board or local boards; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in whole or in part at the district level, then it may ask the commissioner to grant it a waiver from this provision;

(7) employ a person or persons qualified to ~~manage~~ provide financial and student data management services for the supervisory union accounts;

~~(8) at the option of the supervisory union,~~ provide the following services for the benefit of member districts ~~according~~ in a manner that promotes the efficient use of financial and human resources, which shall be provided pursuant to joint agreements under section 267 of this title whenever feasible; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in another manner, then it may ask the commissioner to grant it a waiver from this subdivision;

(A) ~~centralized purchasing~~ manage a system to procure and distribute goods and operational services;

(B) ~~construction management~~ manage construction projects;

(C) ~~budgeting, accounting and other financial management~~ provide financial and student data management services, including grant writing and fundraising as requested;

(D) ~~teacher negotiations~~ negotiate with teachers and administrators, pursuant to chapter 57 of this title, and with other school personnel, pursuant to chapter 22 of Title 21, at the supervisory union level; provided that

(i) contract terms may vary by district; and

(ii) contracts may include terms facilitating arrangements between or among districts to share the services of teachers, administrators, and other school personnel;

(E) ~~transportation~~ provide transportation or arrange for the provision of transportation, or both in any districts in which it is offered within the supervisory union; and

(F) provide human resources management support; and

(G) provide other appropriate services according to joint agreements pursuant to section 267 of this title;

(9) ~~require that the superintendent as executive officer of the supervisory union board be responsible to the commissioner and state board for reporting on all financial transactions within the supervisory union. On or before August 15 of each year, the superintendent, using a format approved by the commissioner, shall forward to the commissioner a report describing the~~

~~financial operations of the supervisory union for the preceding school year.~~

~~The state board may withhold any state funds from distribution to a supervisory union until such returns are made; [Repealed.]~~

(10) submit to the town auditors of each member school district or to the person authorized to perform the duties of an auditor for the school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount expended by the supervisory union for special education-related services, including:

(A) A breakdown of that figure showing the amount paid by each school district within the supervisory union;

(B) A summary of the services provided by the supervisory union's use of the expended funds;

(11) on or before June 30 of each year, adopt a budget for the ensuing school year; and

(12) adopt supervisory union-wide truancy policies consistent with the model protocols developed by the commissioner.

(13)–(17) [Repealed.]

(b) Virtual merger. In order to promote the efficient use of financial and human resources, and whenever legally permissible, supervisory unions are encouraged to reach agreements with other supervisory unions jointly to provide any service or perform any duty under this section pursuant to section 267 of this title. Agreements between supervisory unions are not subject to the waiver requirement of subdivision (a)(8) of this section. Agreements shall include a cost-benefit analysis outlining the projected financial savings or enhanced outcomes, or both, that the parties expect to realize through shared services or programs.

Sec. 9a. AGREEMENTS BETWEEN SUPERVISORY UNIONS;

#### REIMBURSEMENT

From the education fund, the commissioner of education shall pay up to \$10,000.00 to supervisory unions to reimburse the transitional costs, including legal and other consulting fees, necessary for the supervisory unions to enter into agreements to provide services or perform duties jointly pursuant to the provisions of 16 V.S.A. §§ 261a(b) and 267.

Sec. 10. 16 V.S.A. § 242 is amended to read:

#### § 242. DUTIES OF SUPERINTENDENTS

The superintendent shall be the chief executive officer for the supervisory union board and for each school board in within the supervisory district union, and shall:

(1) carry out the policies adopted by the school ~~board~~ boards relating to the educational or business affairs of the school district or supervisory union, and develop procedures to do so;

(2) ~~identify~~ prepare, for adoption by a local school board, plans to achieve the educational goals and objectives ~~of~~ established by the school district and prepare plans to achieve those goals and objectives for adoption by the school board;

(3) ~~recommend that the school board employ or dismiss persons as necessary to carry out the work of the school district~~ (A) nominate a candidate for employment by the school district or supervisory union if the vacant position requires a licensed employee; provided, if the appropriate board declines to hire a candidate, then the superintendent shall nominate a new candidate;

(B) select nonlicensed employees to be employed by the district or supervisory union; and

(C) dismiss licensed and nonlicensed employees of a school district or the supervisory union as necessary, subject to all procedural and other protections provided by contract, collective bargaining agreement, or provision of state and federal law;

(4)(A) furnish the commissioner provide data and information required by the commissioner; ~~and~~

(B) report all financial operations within the supervisory union to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner;

(C) report all financial operations for each member school district to the commissioner and state board for the preceding school year on or before August 15 of each year, using a format approved by the commissioner; and

(D) prepare for each district an itemized report detailing the portion of the proposed supervisory union budget for which the district would be assessed for the subsequent school year identifying the component costs by category and explaining the method by which the district's share for each cost was calculated; and provide the report to each district at least 14 days before a budget, including the supervisory union assessment, is voted on by the electorate of the district;

\* \* \*

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

(C) At a school district's annual or special meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual meeting.

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:

(i) all revenues from all sources, and expenses, including as separate items any assessment for a supervisory union of which it is a member, and any tuition to be paid to a technical center; and including the report required in subdivision 242(4)(D) of this title itemizing the component costs of the supervisory union assessment;

\* \* \*

Sec. 12. REPEAL

16 V.S.A. § 563(13) (duty of school district board to report financial information to the commissioner) is repealed.

Sec. 13. 16 V.S.A. § 1981(8) and (9) are amended to read:

(8) “School board negotiations council” means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union to engage in professional negotiations with a teachers’ or administrators’ organization.

~~(A) School districts within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives, as appropriate, designated by:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) The school board for a high school within the supervisory union and the board of each elementary school, if any, that sends its students to the high school.~~

~~(B) A school district, however, may form a separate negotiations council if it:~~

~~(i) Maintains a school but does not offer grades 9 through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

(9) “Teachers’ organization negotiations council” or “administrators’ organization negotiations council” means the body comprising representatives designated by each teachers’ organization or administrators’ organization within a supervisory district or supervisory union to act as its representative for professional negotiations.

~~(A) Teachers’ or administrators’ organizations within a supervisory union that has more than one public high school, however, may form separate~~

~~negotiations councils, each consisting of representatives designated by the teachers' or administrators' organization, as appropriate, of:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) A high school within the supervisory union and of each elementary school, if any, that sends its students to the high school.~~

~~(B) A teachers' or administrators' organization, however, may form a separate negotiations council if it is within a school district that:~~

~~(i) Maintains a school but does not offer grades 9 through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

Sec. 14. 21 V.S.A. § 1722(18) and (19) are amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union to engage in collective bargaining with their school employees' negotiations council.

~~(A) School districts within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives, as appropriate, designated by:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) The school board for a high school within the supervisory union and the board of each elementary school, if any, that sends its students to the high school.~~

~~(B) A school district, however, may form a separate negotiations council if it:~~

~~(i) Maintains a school but does not offer grades nine through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

(19) “School employees’ negotiations council” means the body comprising representatives designated by each exclusive bargaining agent within a supervisory district or supervisory union to engage in collective bargaining with its school board negotiations council.

~~(A) Exclusive bargaining agents within a supervisory union that has more than one public high school, however, may form separate negotiations councils, each consisting of representatives designated by the exclusive bargaining agent, as appropriate, of:~~

~~(i) Each school district providing kindergarten through grade 12 within the supervisory union; or~~

~~(ii) A high school within the supervisory union and of each elementary school, if any, that sends its students to the high school.~~

~~(B) An exclusive bargaining agent, however, may form a separate negotiations council if it is within a school district that:~~

~~(i) Maintains a school but does not offer grades nine through 12;~~

~~(ii) Is not a member of a union high school district; and~~

~~(iii) Is in a supervisory union that includes a district providing kindergarten through grade 12.~~

Sec. 15. 16 V.S.A. § 242(5) is amended to read:

(5) work with the school boards of the member districts to develop and implement policies regarding minimum and optimal average class sizes for regular and technical education classes. The policies may be supervisory union-wide, may be course- or grade-specific, and may reflect differences among school districts due to geography or other factors; and

(6) provide for the general supervision of the public schools in the supervisory union or district.

#### Sec. 16. MINIMUM AND OPTIMAL CLASS SIZE POLICIES

(a) On or before January 15, 2011, the policy required by Sec. 15 of this act, 16 V.S.A. § 242(5), regarding minimum and optimal average class size, shall be:

(1) adopted by each supervisory union board and member district board;

(2) posted on the website maintained by the supervisory union; and

(3) forwarded to the commissioner of education.

(b) On or before August 31, 2010, the commissioner of education shall develop two or more model policies regarding minimum and optimal class size and shall post them on the department's website.

Sec. 17. STUDENT-TO-STAFF RATIOS; DATA

In order to develop meaningful proposals to determine optimal cost-effective student-to-staff ratios, the commissioner of education shall research and, on or before January 15, 2011, shall present to the senate and house committees on education the following statistics for the most recent academic year for which data is available:

(1) the total staff-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(2) classroom teacher-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(3) administrative staff-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations;

(4) licensed educator-to-student ratios at a supervisory unionwide level, without including transportation, food service, maintenance, enterprise operations, or community service operations; and

(5) total expenditures, at both the supervisory unionwide and statewide levels, of transportation, food service, maintenance, enterprise operations, or community service operations, with a breakdown of contractual services and services provided by the supervisory union or school district.

#### Sec. 18. TRANSITION

Each supervisory union shall provide for any transition of employment of special education staff by member districts to employment by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(6), by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) containing an agreement with the recognized representatives of the employees of the member districts that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees, will address issues of seniority, reduction in force, layoff, and recall.

#### Sec. 19. INTEGRATED FINANCIAL MANAGEMENT PROCESS

(a) The commissioner of education shall develop an integrated process, including consistent policies and practices, for financial management and reporting that includes common accounting standards, to be used by supervisory unions in the state to enable the supervisory unions share financial information with each other, with the public, and with the department and to ensure that all districts and supervisory unions consistently use uniform, high quality practices. In developing the integrated process, the commissioner shall include standards requiring that persons responsible for the financial management of Vermont education entities share an equivalent level of training and expertise.

(b) The commissioner shall ensure that the integrated process of financial management and reporting is fully implemented no later than July 1, 2011, and shall report to the senate and house committees on education regarding implementation on or before January 15, 2012.

Sec. 20. HIGH SCHOOL TUITION; UNDERCHARGES AND  
OVERCHARGES

On or before January 15, 2011, the department of education shall:

- (1) review 16 V.S.A. § 824(b)(1) regarding tuition payments that are three percent more or less than the calculated net cost per secondary pupil for the year of attendance;
- (2) calculate the number of receiving schools that have been subject to the provisions of subdivision 824(b)(1) during the last three years;
- (3) calculate the total amount of additional tuition that sending districts have paid to receiving schools pursuant to the provisions of subdivision 824(b)(1) during the last three years;
- (4) calculate the number of total amount of tuition that receiving schools have credited to sending districts pursuant to the provisions of subdivision 824(b)(1) during the last three years;
- (5) calculate the number of total amount of tuition that receiving schools have refunded to sending districts pursuant to the provisions of subdivision 824(b)(1) during the last three years;

(6) consider and propose to the senate and house committees on education alternative means by which tuition payments that are three percent more or less than the calculated net cost per secondary pupil can be addressed.

\* \* \* Small Schools \* \* \*

Sec. 21. RECOMMENDATIONS; SMALL SCHOOLS

On or before January 15, 2011, the commissioner of education shall develop and present to the general assembly a detailed proposal to:

(1) identify annually the school districts that are “eligible school districts” pursuant to 16 V.S.A. § 4015 due to geographic necessity, including the criteria that indicate geographic necessity;

(2) calculate and adjust the level of additional financial support necessary for the districts identified in subdivision (1) of this section to provide an education to resident students in compliance with state education quality standards and other state and federal laws; and

(3) withdraw small school support gradually from districts that are “eligible school districts” pursuant to 16 V.S.A. § 4015 as currently enacted but will not be identified as “eligible school districts” pursuant to subdivision (1) of this section.

\* \* \* Designation; Codification \* \* \*

Sec. 21a. 16 V.S.A. § 827(e) is added to read:

(e) Notwithstanding any other provision of law to the contrary:

(1) the school districts of Pawlet, Rupert, and Wells may designate a public high school located in New York as the public high school of the district pursuant to the provisions of this section; and

(2) unless otherwise directed by an affirmative vote of the school district, when the Wells board approves parental requests to pay tuition to a nondesignated approved independent or public school, the board shall pay tuition in an amount not to exceed the base education amount as determined under section 4011 of this title for the fiscal year in which tuition is being paid.

\* \* \* Distance Learning; Out-of-State Programs \* \* \*

Sec. 21b. 16 V.S.A. § 166(b)(6) is amended to read:

(6) This subdivision applies to an independent school located in Vermont ~~which that~~ offers a distance learning program ~~of elementary or secondary education through correspondence, electronic mail, satellite communication, or other means~~ and ~~which that~~, because of its structure, does not meet some or all the rules of the state board for approved independent schools. In order to be approved under this subdivision, a school shall meet the standards adopted by rule of the state board for approved independent schools ~~which that~~ can be applied to the applicant school and any other standards or rules adopted by the state board regarding these types of schools. A school approved under this subdivision shall not be eligible to receive tuition payments from public school districts under chapter 21 of this title. ~~However,~~

~~a school district may enter into a contract or contracts with a school approved under this subdivision for provisions of some education services for its students.~~

Sec. 21c. 16 V.S.A. § 563(32) is added to read:

(32) May enter into a contract or contracts with a school offering a distance learning program that is approved by one or more accrediting agencies recognized by the U.S. Department of Education or is approved in Vermont pursuant to subdivision 166(b)(6) of this title.

Sec. 21d. H.792 of 2010, as enacted, is amended in Sec. H2, 2 V.S.A. § 970, by striking subsections (b) and (c) in their entirety and inserting in lieu thereof the following:

(b) The membership of the committee shall be appointed each biennial session of the general assembly. The committee shall be comprised of twelve members: six members of the house of representatives who shall not all be from the same party: one from the committee on government operations, one from the committee on human services, one from the committee on appropriations, one from the committee on ways and means, one from the committee on education, and one from the committee on corrections and institutions, appointed by the speaker of the house; and six members of the senate who shall not all be from the same party: one from the committee on government operations, one from the committee on health and welfare, one

from the committee on appropriations, one from the committee on finance, one from the committee on education, and one from the committee on institutions, appointed by the committee on committees. The governor shall appoint one person to serve as a nonvoting liaison to the committee.

(c) The committee shall elect a chair, vice chair, and clerk from among its members and shall adopt rules of procedure. The chair shall alternate biennially between the house and the senate members. The committee shall keep minutes of its meetings and maintain a file thereof. A quorum shall consist of seven members.

Sec. 22. 16 V.S.A. § 2944(g) is added to read:

(g) Any public or approved independent secondary school receiving state education funds shall allow an enrolled student to choose to participate in the graduation ceremony and senior year activities of the student's peers if:

(1) the student is receiving specialized instruction or services, from or through the school, described in an individualized education plan ("IEP") or a Section 504 plan;

(2) under the IEP or Section 504 plan, the student will need to remain enrolled in the school after that graduation ceremony in order to complete his or her secondary education, including special education and transition services;  
and

(3) the student, as a result of his or her disability or impairment, needs to remain enrolled in the school after that graduation ceremony in order to complete his or her secondary education.

(h) A school shall not be required to permit a student to participate in a graduation ceremony or senior year activities pursuant to subsection (g) of this section if the student has not met graduation requirements for reasons that are wholly unrelated to the student's disability.

(i) A student who participates in a graduation ceremony pursuant to subsection (g) of this section shall not receive a diploma as part of that ceremony, but shall receive a certificate of recognition in a form determined by the school. If on an IEP, the student shall receive a regular high school diploma upon satisfactory completion of all necessary graduation requirements and at a time determined by the IEP team. If on a Section 504 plan, the student shall receive a regular high school diploma upon satisfactory completion of all necessary graduation requirements. Unless a school determines otherwise, a student may participate in no more than one graduation ceremony.

(j) A student's participation in a graduation ceremony pursuant to subsection (g) of this section shall not affect or limit the student's eligibility for special education services, related services, transition services, or Section 504 services following the ceremony.

Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 5 and 22 of this act shall take effect on passage.

(b) Secs 9 through 12 of this act shall take effect on passage and shall be fully implemented by July 1, 2012, subject to the provisions of existing contracts.

(c) All other sections of this act not mentioned in subsections (a) and (b) of this section shall take effect on July 1, 2010.

Date on which the governor allowed the bill to become law without his  
signature: June 3, 2010