

1 H.782

2 Introduced by Committee on Education

3 Date:

4 Subject: Education; voluntary merger; school districts; supervisory unions;  
5 distance learning; class size

6 Statement of purpose: This bill proposes to create a voluntary school district  
7 merger incentive program to be in effect though fiscal year 2017, to permit  
8 school districts to enter into a contract with out-of-state distance learning  
9 programs that are approved by one or more federally recognized accrediting  
10 entities, to require that all supervisory unions perform common duties on  
11 behalf of their member districts, to require that all school districts develop  
12 policies regarding minimum and optimal class sizes, and to require reports  
13 regarding the effect of merger on fiscal efficiencies, operational efficiencies,  
14 expansion of student opportunities, changes in student outcomes, and other  
15 issues.

16 An act relating to a voluntary school district merger incentive program,  
17 supervisory union duties, and other education issues

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

19 ~~Sec. 1. INTENT~~

20 ~~It is the intent of the general assembly:~~

- 1 ~~(1) to ensure that any change to the governance structure of the Vermont~~  
2 ~~educational system will create better opportunities for students, reasonably~~  
3 ~~increase economies of scale, preserve a sense of community, and provide~~  
4 ~~incentives for cost efficiencies available in personnel assignment and the~~  
5 ~~management of resources;~~
- 6 ~~(2) to provide technical assistance, incentives, and statutory changes to~~  
7 ~~encourage voluntary merger of school districts;~~
- 8 ~~(3) to assist schools and education governing units to use meaningful,~~  
9 ~~standardized metrics for evaluating programs, comparing local, national, and~~  
10 ~~international student data, and assessing and identifying system improvements;~~
- 11 ~~(4) to ensure that there are meaningful methods to analyze the costs and~~  
12 ~~benefits of resource allocations;~~
- 13 ~~(5) to make effective use of technology to expand educational~~  
14 ~~opportunities for all students; and~~
- 15 ~~(6) to ensure that voters have opportunities to make local decisions~~  
16 ~~regarding school choice and other enrollment options, in Vermont public~~  
17 ~~schools and in approved independent schools, that are appropriate for their~~  
18 ~~communities.~~

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

Sec. 2. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

There is created a school district merger incentive program to be in effect through fiscal year 2017 under which each new unified union school district created by the voluntary merger of existing school districts pursuant to Secs. 3 and 5 of this act shall receive the incentives outlined in Sec. 4 of this act.

Sec. 3. INCENTIVE PROGRAM REQUIREMENTS RELATING TO  
DISTRICT STRUCTURE

(a) Size and Schools. Two or more contiguous school districts, which may include one or more union school districts, may merge to form a unified union school district ("UUSD") that (except as provided in Sec. 6 of this act) shall:

(1) have an average daily membership of at least 1,250 or result from the merger of at least five districts, or both; and

(2) maintain one or more approved public schools offering elementary and secondary education. Notwithstanding any other provision of law to the contrary:

(A) and for purposes of this subdivision, a UUSD shall be deemed to maintain a public high school if it has designated a public school outside the district or an approved independent school as its public high school pursuant to the provisions of 16 V.S.A. § 827 and if a UUSD designates a school to satisfy the requirement of this subdivision, the act of designation will not limit the

1 ~~enrollment options available to the UUSD under the proposal approved by the~~  
2 electorate in Sec. 5(b)(2)(B)(ii) of this act, including tuitioning students to  
3 public schools or approved independent schools inside or outside the UUSD;  
4 and

5 (B) the fact that an existing union high school district is among the  
6 districts merging to form a UUSD shall not limit the enrollment options  
7 available to the UUSD under the proposal approved by the electorate in Sec.  
8 5(b)(2)(B)(ii) of this act, including tuitioning students to public schools or  
9 approved independent schools inside or outside the UUSD.

10 (b) Supervisory unions.

11 (1) School districts that merge to form a UUSD do not need to be from  
12 the same supervisory union.

13 (2) If a UUSD includes all school districts within one or more  
14 supervisory unions, then the UUSD shall replace the school districts, the  
15 supervisory union or unions, and all related elected boards.

16 (3) If a UUSD forms and does not include all school districts within one  
17 or more supervisory unions, then:

18 (A) the UUSD is an independent entity distinct from the remaining  
19 school districts and the supervisory union or unions; and

20 (B) any school district that is a member of the same supervisory  
21 union as one or more of the merging districts and that does not merge to form

1 ~~the UUSD shall maintain its existing governance structure; provided, however,~~  
2 that upon vote of the electorate, the school district may notify the state board of  
3 education of its intent to operate as a supervisory district as defined in  
4 16 V.S.A. § 11(24) or may request the state board to assign it to an existing  
5 supervisory union pursuant to 16 V.S.A. § 261.

6 (c) Organization. A UUSD is a supervisory district consisting of a single  
7 unified union school district, as explicitly contemplated by 16 V.S.A.  
8 § 11(a)(24). Subject to the provisions of this act, a UUSD is a unified union  
9 school district as defined by 16 V.S.A. § 722 that is not assigned to a  
10 supervisory union pursuant to 16 V.S.A. § 706 and operates pursuant to  
11 chapter 11 of Title 16.

12 (d) Operation of schools. A UUSD shall not close any school within its  
13 boundaries during the first four years of merger or prior to fiscal year 2018,  
14 whichever is earlier, unless the electorate of the municipality in which the  
15 school is located consents to closure.

16 (e) UUSD board.

17 (1) Membership. The UUSD shall be governed by one board. Members  
18 of the board shall be elected pursuant to 16 V.S.A. §§ 706e and 706k and any  
19 other related provisions of chapter 11 of Title 16.

1 ~~(2) Duties. The UUSD board shall:~~

2 ~~(A) develop, approve, and ensure implementation of educational and~~  
3 ~~other policies for schools within the UUSD, which shall include those required~~  
4 ~~by 16 V.S.A. §§ 563 and 261a;~~

5 ~~(B) adopt a proposed budget;~~

6 ~~(C) hire no more than one superintendent; and~~

7 ~~(D) perform other duties for which school district and supervisory~~  
8 ~~union boards are legally responsible, as applicable.~~

9 ~~(f) Local participation. The plan for merger presented to the electorate for~~  
10 ~~approval under Sec. 5 of this act shall include structures and processes that~~  
11 ~~provide opportunities for local participation in the creation of UUSD policy~~  
12 ~~and budget development.~~

13 ~~(g) Enrollment options.~~

14 ~~(1) As part of the merger process, each UUSD shall implement the~~  
15 ~~student enrollment options proposed by the subcommittee under Sec.~~  
16 ~~5(b)(2)(B)(ii) of this act and approved by the electorate.~~

17 ~~(2) Notwithstanding the authority to establish enrollment options~~  
18 ~~pursuant to subdivision (1) of this subsection, the UUSD shall comply with the~~  
19 ~~regional high school choice provisions of 16 V.S.A. § 1622.~~

(h) Educational requirements.

(1) Technical education. The UUSD shall provide access to secondary technical education for students pursuant to 16 V.S.A. § 1541a and shall permit any qualified student in grades 9–12 residing within its boundaries to enroll, as capacity permits, in appropriate classes and programs offered by the technical center or centers.

(2) Special education; local education agency. The UUSD shall be the local education agency for purposes of both 20 U.S.C. §§ 1400–1485 (Individuals with Disabilities Education Act) and 20 U.S.C. §§ 6311–6318 (the Elementary and Secondary Education Act of 1965 and the No Child Left Behind Act of 2001) and their implementing regulations, as amended from time to time. The UUSD shall provide special education services and shall be responsible for developing the individualized education plans for students residing within its boundaries.

(3) Curriculum. The UUSD shall have a UUSD-wide curriculum that meets the standards adopted pursuant to 16 V.S.A. § 165(a)(3) and that is approved by the UUSD board and fully implemented no later than the sixth year of the UUSD's existence.

(4) Higher education. Prior to the beginning of the third year of merger, the UUSD shall provide opportunities for students to enroll in postsecondary

1 ~~classes for secondary credit and to enroll in postsecondary classes for both~~  
2 ~~secondary and postsecondary credit.~~

3 (5) Distance learning. To the extent there is sufficient bandwidth  
4 capacity, the UUSD shall provide opportunities for students attending a school  
5 operated by the UUSD to enroll in distance learning programs pursuant to  
6 16 V.S.A. § 563(32).

7 (6) Connections to the workforce. The UUSD shall offer opportunities  
8 for students to participate in internships or other work experiences with area  
9 businesses, artisans, and organizations.

10 (7) Graduation. The UUSD shall provide opportunities for students who  
11 have completed all graduation requirements to graduate from secondary school  
12 prior to the student's expected year of graduation.

13 (i) Daily schedule. Secondary schools within the UUSD and the affiliated  
14 technical center or centers shall develop daily schedules that support  
15 opportunities for students to participate in available educational opportunities.

16 (j) Transportation. The UUSD board shall decide to what extent the UUSD  
17 will offer transportation to students.

18 (k) Employment and labor relations. The UUSD, upon assuming operating  
19 responsibility on the first day of its existence, shall:

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

1 ~~(2) assume the collective bargaining agreements between the~~  
2 ~~participating districts and their respective representative organizations,~~  
3 ~~including any provisions that address the transition to the UUSD, until such~~  
4 ~~time as it reaches its own agreement with teachers and administrators under~~  
5 ~~16 V.S.A. § 2005, and with respect to other employees under 21 V.S.A.~~  
6 ~~§ 1725(a); and~~

7 ~~(3) otherwise comply with all laws regarding labor relations, including~~  
8 ~~chapter 57 of Title 16 and chapter 22 of Title 21.~~

9 Sec. 4. UUSD PROGRAM INCENTIVES

10 (a) Multi-year budgets.

11 ~~(1) In addition to the option of proposing a single-year budget on an~~  
12 ~~annual basis pursuant to the provisions of chapter 11 of Title 16 and~~  
13 ~~notwithstanding any other provision of law, a UUSD formed pursuant to Secs.~~  
14 ~~3 and 5 of this act shall also have the option to propose one or both of the~~  
15 ~~following:~~

16 ~~(A) A multi-year budget for the first two fiscal years of its existence,~~  
17 ~~provided the years are prior to fiscal year 2018, that will be included as part of~~  
18 ~~the plan that must be approved by the electorate in order to create the UUSD.~~

19 ~~(B) A multi-year budget for the third and fourth fiscal years of its~~  
20 ~~existence, provided the years are prior to fiscal year 2018, that is presented to~~

1 ~~the electorate for approval at the UUSD's annual meeting convened in its~~  
2 ~~second fiscal year.~~

3 ~~(2) The plan presented to the electorate to authorize creation of the~~  
4 ~~UUSD may contain a provision authorizing the UUSD, beginning in the earlier~~  
5 ~~of the fifth fiscal year of its existence or fiscal year 2018, to present multi-year~~  
6 ~~proposed budgets to the electorate once in every two or three years.~~

7 ~~(3) A UUSD that spends less than the budgeted amount prior to fiscal~~  
8 ~~year 2018 shall be entitled to retain the budget surplus to lower its tax rate in~~  
9 ~~fiscal year 2018 or after, or for another purpose approved by the electorate.~~

10 ~~(b) Tax rates.~~

11 ~~(1) Subject to the provisions of subdivision (3) of this subsection and~~  
12 ~~notwithstanding any other provision of law, for no more than four consecutive~~  
13 ~~years prior to fiscal year 2018:~~

14 ~~(A) if the UUSD's approved annual education spending in one fiscal~~  
15 ~~year is less than its education spending in the prior fiscal year, then for~~  
16 ~~purposes of calculating the UUSD's homestead property tax rate for the year,~~  
17 ~~the UUSD's education spending per equalized pupil shall be decreased by~~  
18 ~~\$875.00;~~

19 ~~(B) if the UUSD's approved annual education spending in one fiscal~~  
20 ~~year is equal to its education spending in the prior fiscal year, then for purposes~~  
21 ~~of calculating the UUSD's homestead property tax rate for the year, the~~

1 ~~UUSD's education spending per equalized pupil shall be decreased by~~  
2 ~~\$750.00;~~

3 ~~(C) if the UUSD's approved annual education spending in one fiscal~~  
4 ~~year is greater than its education spending in the prior fiscal year by one~~  
5 ~~percent or less, then for purposes of calculating the UUSD's homestead~~  
6 ~~property tax rate for the year, the UUSD's education spending per equalized~~  
7 ~~pupil shall be decreased by \$600.00;~~

8 ~~(D) if the UUSD's approved annual education spending in one fiscal~~  
9 ~~year is greater than its education spending in the prior fiscal year by more than~~  
10 ~~one percent but not by more than two percent, then for purposes of calculating~~  
11 ~~the UUSD's homestead property tax rate for the year, the UUSD's education~~  
12 ~~spending per equalized pupil shall be decreased by \$400.00; and~~

13 ~~(E) if the UUSD's approved annual education spending in one fiscal~~  
14 ~~year is greater than its education spending in the prior fiscal year by more than~~  
15 ~~two percent but not by more than four percent, then for purposes of calculating~~  
16 ~~the UUSD's homestead property tax rate for the year, the UUSD's education~~  
17 ~~spending per equalized pupil shall be decreased by \$200.00.~~

18 ~~(2) For purposes of determining the UUSD's homestead property tax~~  
19 ~~rate under this subsection for the first fiscal year of merger, the UUSD's~~  
20 ~~education spending in the first fiscal year of merger shall be compared to the~~  
21 ~~combined education spending of the merging districts from the fiscal year two~~

1 ~~years prior to the first fiscal year of merger increased by the percentage change~~  
2 in the New England Economic Partnership Cumulative Price Index for state  
3 and local government purchases of goods and services between the fiscal year  
4 two years prior to the first year of UUSD operation and the fiscal year one year  
5 prior to the first year of operation, as of November 15 prior to the first year of  
6 operation.

7 (3) During the years in which a UUSD's homestead property tax rate is  
8 calculated pursuant to this subsection, the equalized homestead property tax  
9 rate for each municipality within the UUSD shall not increase or decrease by  
10 more than five percent in a single year.

11 (c) Capital debt service. Beginning in fiscal year 2018, and  
12 notwithstanding any other provision of law, the commissioner shall pay from  
13 the education fund the interest owed by a UUSD on that portion of capital  
14 debt incurred prior to fiscal year 2012 that has been determined to be eligible  
15 for state construction aid but is subject to the suspension imposed by Sec. 45  
16 of No. 200 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. 22  
17 of No. 54 of the Acts of 2009.

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

20 (1) if a UUSD closes a school building before the earlier of its fifth  
21 fiscal year or 2018 and sells the school building or energy saving measure

1 ~~associated with the building, then neither the UUSD nor any other entity shall~~  
2 ~~be required to refund a percentage of the sale price to the state pursuant to~~  
3 ~~chapter 123 of Title 16; and~~

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

10 ~~(e) Consolidation support grant. If the merging districts of a UUSD~~  
11 ~~included at least one "eligible school district," as defined in 16 V.S.A. § 4015,~~  
12 ~~that had received a small school support grant under section 4015 in the fiscal~~  
13 ~~year two years prior to the first fiscal year of merger shall, then the UUSD~~  
14 ~~shall be eligible to receive a consolidation support grant in each of its first~~  
15 ~~five fiscal years in an amount equal to the small school support grant received~~  
16 ~~by the eligible school district in the fiscal year two years prior to the first~~  
17 ~~fiscal year of merger. If more than one merging district was an eligible school~~  
18 ~~district, then the consolidation support grant shall be in an amount equal to the~~  
19 ~~total combined small school support grants they received in the fiscal year~~  
20 ~~two years prior to the first fiscal year of merger.~~

1 ~~Sec. 5. UUSD FORMATION~~

2 (a) Vote to explore merger. On or before November 1, 2010, the board of  
3 every school district in the state shall discuss whether it wishes to explore  
4 merger within the supervisory union or with one or more contiguous districts  
5 outside the supervisory union or both under the terms of this act. On or before  
6 December 1, 2010, each school district board shall vote whether to work with  
7 other boards to perform a more comprehensive analysis of potential merger,  
8 and shall report the results of its vote to the commissioner of education and the  
9 voters of the district.

10 (b) Subcommittee.

11 (1) If the boards of two or more contiguous districts vote in favor of  
12 considering merger, then the districts shall form a subcommittee, in which the  
13 vote of each district shall be weighted equally, to explore the possibility of  
14 merger, analyze its implications, and, if it concludes it is advisable, develop a  
15 merger proposal pursuant to 16 V.S.A. §§ 706, 706a, and 706b to the extent  
16 they are not contrary to specific provisions of this act.

17 (2) With assistance, as requested, from the department of education, the  
18 superintendent of each supervisory union of which the participating districts  
19 are members, and the UUSD merger template required by Sec. 8 of this act:

20 (A) the subcommittee shall analyze the advisability of merger

1 ~~(B) if the subcommittee determines that merger is advisable, then it~~  
2 shall prepare a proposal in the form of an agreement pursuant to 16 V.S.A.  
3 § 706b to be entered into by the districts upon affirmative vote of the electorate  
4 in each participating district determined to be “necessary” under subdivision  
5 706b(b)(1) that, in addition to the items required by subsection 706b(b),  
6 specifies:  
7 (i) the structures and processes that will provide opportunities for  
8 local participation, including the precise nature and authority of local  
9 participation;  
10 (ii) whether and to what extent the voters of the participating  
11 districts wish to allow the elementary and secondary students residing within  
12 the UUSD to enroll in any school the UUSD maintains and in other schools,  
13 and whether and in what manner approved independent schools and designated  
14 schools will be included; provided, however:  
15 (I) that the determinations shall be made in a manner that  
16 allows all students substantially equal access to educational programs and  
17 services available to students in the UUSD; and  
18 (II) that if the proposed merger plans would provide fewer  
19 options to the students in one or more of the districts interested in merger, then  
20 the plan shall include a process by which the UUSD will pay tuition to a school  
21 pursuant to the provisions of chapter 21 of Title 16 for any student who resides

1 ~~within the UUSD if the student resided in one of the participating districts prior~~  
2 ~~to merger and as a result of that residency was enrolled in the school at public~~  
3 ~~expense at the time of merger, even if the UUSD has determined that the~~  
4 ~~school is not otherwise a school to which it would pay tuition.~~

5 (iii) the proposed UUSD budget for the first fiscal year or the first  
6 and second fiscal years of its operation, together with an explanation that if the  
7 merger proposal is approved and the proposed budget is for more than one  
8 year, then the electorate would not vote on a school budget until it voted  
9 whether to approve the proposed budget for the third fiscal year or the third  
10 and fourth fiscal years of operation;

11 (iv) at the subcommittee's option, a provision authorizing the  
12 UUSD, beginning in fiscal year 2018, to present multi-year proposed budgets  
13 to the electorate once in every two or three years; and

14 (v) a plan that addresses transitional matters related to employees  
15 of the member districts and the proposed UUSD and that:

16 (I) provides for the UUSD to assume all contractual obligations  
17 of the member districts under each existing collective bargaining agreement or  
18 other employment contract until the agreement's or contract's expiration,  
19 subject to employee compliance with performance standards and any lawful  
20 reduction in force, layoff, nonrenewal, or dismissal;

1 ~~(II) provides for the immediate and voluntary recognition by~~  
2 ~~the UUSD of the recognized representatives of the employees of the member~~  
3 ~~districts as the recognized representatives of the employees of the UUSD;~~

4 ~~(III) ensures that no nonprobationary employee of a member~~  
5 ~~district shall be considered a probationary employee upon the transition to the~~  
6 ~~UUSD; and~~

7 ~~(IV) contains an agreement with the recognized representatives~~  
8 ~~of the employees of the member districts, which is effective on the date on~~  
9 ~~which the UUSD comes into existence, regarding how the UUSD, prior to~~  
10 ~~reaching its first collective bargaining agreement with its employees, will~~  
11 ~~address issues of seniority, reduction in force, layoff, and recall;~~

12 ~~(vi) the date on which the new UUSD and its board of directors~~  
13 ~~shall come into existence, which shall also be the date on which:~~

14 ~~(I) all component districts and supervisory unions and their~~  
15 ~~respective elected boards cease to exist;~~

16 ~~(II) the members of the UUSD board, who shall be~~  
17 ~~provisionally elected on the day the electorate of each potential member~~  
18 ~~district votes whether to approve merger and creation of the UUSD, shall begin~~  
19 ~~their respective terms; and~~

20 ~~(III) the incentives created in Sec. 4 of this act shall begin to~~  
21 ~~apply to the UUSD.~~

1 ~~(c) Approval of merger, designation as a new unified union school district,~~  
2 ~~and operation. Except as specifically provided in this act, the subcommittee~~  
3 ~~shall obtain state board of education approval of the merger proposal prepared~~  
4 ~~pursuant to this section, the electorate of each participating district shall vote~~  
5 ~~whether to approve the proposed merger, the new UUSD shall be designated a~~  
6 ~~new unified union school district, and the UUSD shall operate pursuant to the~~  
7 ~~provisions of chapter 11 of Title 16.~~

8 Sec. 6. ALTERNATIVE PATHS TO MERGER

9 Two or more school districts interested in merger may request the state  
10 board of education to consider granting them a waiver from the requirements  
11 of Sec. 3(a) of this act, which shall be granted if the districts can demonstrate  
12 that for them the requirements of that subsection would not be cost-effective,  
13 would decrease educational opportunities, or would diminish student  
14 achievement, or any combination of these.

15 Sec. 7. 16 V.S.A. § 261(e) is added to read:

16 (e) Notwithstanding subsections (a)–(c) of this section, the state board shall  
17 not adjust the boundaries of a supervisory district consisting of one unified  
18 union school district unless the municipalities within the district approve the  
19 adjustment pursuant to chapter 11, subchapter 4, article 4 of Title 16 and  
20 request the state board to make the adjustment.

1 ~~Sec. 8. MERGER TEMPLATE~~

2 ~~The department of education shall develop a merger template to assist~~  
3 ~~subcommittees formed pursuant to Sec. 5(b) of this act or 16 V.S.A. § 706 to~~  
4 ~~consider the advisability of and prepare a proposal for merger. Among other~~  
5 ~~things, the template shall provide data regarding the enrollment and finances of~~  
6 ~~the participating school districts and demographic statistics regarding Vermont~~  
7 ~~municipalities. It shall also outline common issues considered by districts~~  
8 ~~exploring merger and provide links to related resources. The department shall~~  
9 ~~publish the template on its website on or before December 15, 2010.~~

10 Sec. 9. APPLICATION OF LAW

11 ~~(a) All provisions of chapter 11 of Title 16 and state board rules relating to~~  
12 ~~unified union school districts, including the study, formation, operation, and~~  
13 ~~change in membership, shall apply to UUSDs unless the provision is~~  
14 ~~inconsistent with this act.~~

15 ~~(b) 16 V.S.A. § 706h (assignment of a union school district to a supervisory~~  
16 ~~union) does not apply to UUSDs formed pursuant to this act.~~

17 ~~(c) Districts interested in forming a UUSD under the provisions of this act~~  
18 ~~may request the state board of education to grant a waiver from one or more~~  
19 ~~provisions of chapter 11 of Title 16, relating to union school district formation.~~

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

Sec. 10. 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. 11. 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 United States Department of Education or is approved in Vermont pursuant to subdivision 166(b)(6) of this title.

1 \*\*\* Supervisory Union Duties; Class Size \*\*\*

2 Sec. 12. 16 V.S.A. § 261a is amended to read:

3 § 261a. DUTIES OF SUPERVISORY UNION BOARD

4 The board of each supervisory union shall:

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

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

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

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

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

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

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

14 ~~(A) special education;~~

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

17 ~~(C) other services as directed by the state board and local boards~~  
18 ~~provide special education services to member districts and, except as provided~~  
19 ~~in section 144b of this title, compensatory and remedial services; and provide~~  
20 ~~or coordinate the provision of other educational services as directed by the~~  
21 ~~state board or local boards;~~

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

3 (8) at the option of the supervisory union, provide the following services  
4 for the benefit of member districts according to joint agreements under section  
5 267 of this title and in a manner that promotes the efficient use of financial and  
6 human resources:

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

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

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

13 (D) ~~teacher negotiations~~ negotiate with teachers and administrators,  
14 pursuant to chapter 57 of this title, and with other school personnel, pursuant to  
15 chapter 22 of Title 21, at the supervisory union level provided that contracts  
16 may vary by district;

17 (E) ~~transportation~~ provide transportation or arrange for the provision  
18 of transportation, or both, if it is offered within the supervisory union; and

19 (F) provide human resources management support; and

20 (G) provide other appropriate services;

1 ~~(9) require that the superintendent as executive officer of the~~  
2 ~~supervisory union board be responsible to the commissioner and state board for~~  
3 ~~reporting on all financial transactions within the supervisory union. On or~~  
4 ~~before August 15 of each year, the superintendent, using a format approved by~~  
5 ~~the commissioner, shall forward to the commissioner a report describing the~~  
6 ~~financial operations of the supervisory union for the preceding school year.~~  
7 ~~The state board may withhold any state funds from distribution to a~~  
8 ~~supervisory union until such returns are made; [Repealed.]~~

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

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

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

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

3 (12) adopt supervisory unionwide truancy policies consistent with the  
4 model protocols developed by the commissioner.

5 (13)–(17) [Repealed.]

6 Sec. 13. 16 V.S.A. § 242 is amended to read:

7 § 242. DUTIES OF SUPERINTENDENTS

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

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

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

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

1 ~~declines to hire a candidate, then the superintendent shall nominate a new~~  
2 ~~candidate;~~

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

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

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

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

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

17 ~~(D) prepare for each district an itemized report detailing the portion~~  
18 ~~of the proposed supervisory union budget for which the district would be~~  
19 ~~assessed for the subsequent school year identifying the component costs by~~  
20 ~~category and explaining the method by which the district's share for each cost~~  
21 ~~was calculated; and provide the report to each district at least 14 days before a~~

1 ~~budget, including the supervisory union assessment, is voted on by the~~  
2 ~~electorate of the district;~~

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

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

10 Sec. 14. 16 V.S.A. § 563(11)(C) is amended to read:

11 (C) At a school district's annual or special meeting, the electorate  
12 may vote to provide notice of availability of the school budget required by this  
13 subdivision to the electorate in lieu of distributing the budget. If the electorate  
14 of the school district votes to provide notice of availability, it must specify how  
15 notice of availability shall be given, and such notice of availability shall be  
16 provided to the electorate at least 30 days before the district's annual meeting.  
17 The proposed budget shall be prepared and distributed at least ten days before  
18 a sum of money is voted on by the electorate. Any proposed budget shall show  
19 the following information in a format prescribed by the commissioner of  
20 education:

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

6 \* \* \*

7 Sec. 15. 16 V.S.A. § 1981(8) and (9) are amended to read:

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

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

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

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

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

- 3 ~~(i) Maintains a school but does not offer grades 9 through 12;~~  
4 ~~(ii) Is not a member of a union high school district; and~~  
5 ~~(iii) Is in a supervisory union that includes a district providing~~  
6 ~~kindergarten through grade 12.~~

7 (9) "Teachers' organization negotiations council" or "administrators'  
8 organization negotiations council" means the body comprising representatives  
9 designated by each teachers' organization or administrators' organization  
10 within a supervisory district or supervisory union to act as its representative for  
11 professional negotiations.

12 ~~(A) Teachers' or administrators' organizations within a supervisory~~  
13 ~~union that has more than one public high school, however, may form separate~~  
14 ~~negotiations councils, each consisting of representatives designated by the~~  
15 ~~teachers' or administrators' organization, as appropriate, of:~~

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

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

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

- 1 ~~(i) Maintains a school but does not offer grades 9 through 12;~~  
2 ~~(ii) Is not a member of a union high school district; and~~  
3 ~~(iii) Is in a supervisory union that includes a district providing~~  
4 ~~kindergarten through grade 12.~~

5 Sec. 16. 21 V.S.A. § 1722(18) and (19) are amended to read:

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

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

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

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

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

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

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

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

4 (19) "School employees' negotiations council" means the body  
5 comprising representatives designated by each exclusive bargaining agent  
6 within a supervisory district or supervisory union to engage in collective  
7 bargaining with its school board negotiations council.

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

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

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

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

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

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

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

~~Sec. 17. MINIMUM AND OPTIMAL CLASS SIZE POLICIES~~

~~(a) On or before December 31, 2010, the policy required by Sec. 13, 16 V.S.A. § 242(5), of this act 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. 18. REPEAL

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

\* \* \* Reports; Effective Dates; Transitional Issues \* \* \*

Sec. 19. REPORTS; EFFECTS OF MERGER; RECOMMENDATIONS

(a) On or before December 1, 2010, the commissioner of education shall report to the house and senate committees on education regarding the school boards that have voted to consider merger.

(b) On or before March 15, 2011, and in every January thereafter through 2017, the commissioner shall report to the house and senate committees on education regarding the status of merger discussions and votes.

1 ~~(c) The James M. Jeffords Center of the University of the Vermont, the~~  
2 ~~department of education, and school districts participating in the voluntary~~  
3 ~~merger process authorized by this act shall collaborate to study:~~  
4 ~~(1) data and comments from school districts and supervisory unions~~  
5 ~~statewide that are discussing voluntary merger;~~  
6 ~~(2) the results of local district elections to approve voluntary merger~~  
7 ~~under the provisions of this act; and~~  
8 ~~(3) in connection with UUSDs that are formed under the provisions of~~  
9 ~~this act:~~  
10 ~~(A) real dollar efficiencies realized;~~  
11 ~~(B) operational efficiencies realized;~~  
12 ~~(C) changes in student learning opportunities; and~~  
13 ~~(D) changes in student outcomes.~~  
14 ~~(d) On or before January 15, 2018, the James M. Jeffords Center and the~~  
15 ~~department of education shall present a final report concerning the study~~  
16 ~~required in subsection (c) of this section, including recommendations to the~~  
17 ~~house and senate committees on education regarding what further actions, if~~  
18 ~~any, should be pursued to encourage or require merger by nonparticipating~~  
19 ~~school districts, and shall provide interim reports in each January until that~~  
20 ~~date.~~

~~Sec. 20. 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.~~

Sec. 21. LEGISLATIVE COUNCIL; STATUTORY REVISION

(a) Pursuant to the statutory revision authority provided in 2 V.S.A. § 424, the legislative council shall make technical amendments to the Vermont Statutes Annotated that are necessary to effect the intent of this act.

(b) On or before January 1, 2011, the legislative council shall prepare a draft bill and provide it to the house and senate committees on education that proposes statutory changes necessary to effect the intent of this act.

1 ~~Sec. 22. TRANSITION~~

2 Each supervisory union shall provide for any transition of employment of  
3 special education staff by member districts to employment by the supervisory  
4 union, pursuant to Sec. 12 of this act, 16 V.S.A. § 261a(6), by:

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

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

15 (3) ensuring that no nonprobationary employee of a member district  
16 shall be considered a probationary employee upon transition to the supervisory  
17 union; and

18 (4) containing an agreement with the recognized representatives of the  
19 employees of the member districts that is effective on the day the supervisory  
20 union assumes obligations of existing agreements regarding how the  
21 supervisory union, prior to reaching its first collective bargaining agreement

1 ~~with its special education employees, will address issues of seniority, reduction~~  
2 ~~in force, layoff, and recall.~~

3 Sec. 23. EFFECTIVE DATES

4 ~~(a) Secs 12–16 of this act shall take effect on July 1, 2012.~~

5 ~~(b) This section and all other sections of this act shall take effect on~~  
6 ~~passage, subject to the provisions of existing contracts.~~

7  
*Sec. 1. FINDINGS*

*The general assembly finds that:*

*(1) the voluntary merger of Vermont's education governing units will support opportunities for students, increased economies of scale, and 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 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.*

*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 secondary education by paying tuition; provided that the effective date of merger shall be on or before July 1, 2016.*

*(b) Board discussion. On or before November 1, 2010, the board of every school district in the state shall discuss whether it wishes to explore merger*

within its supervisory union or with one or more districts outside its supervisory union, which for the purposes of this act includes supervisory districts, or both under the terms of this act.

(c) Board vote. On or before December 1, 2010, each school district board shall vote whether to work with other boards 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 the district.

Sec. 3. **INCENTIVE PROGRAM REQUIREMENTS RELATING TO DISTRICT STRUCTURE**

(a) Size and contiguity.

(1) Contiguous school districts, which may include one or more union school districts, may merge to form a unified union school district ("Merged District") pursuant to chapter 11 of Title 16 that shall have an average daily membership of at least 1,250 or result from the merger of at least five districts, or both.

(2) School districts interested in merger may request the state board of education to grant them a waiver from one or more of the requirements of subdivision (1) of this subsection (contiguity; average daily membership; number of districts), which shall be granted if the state board determines that merger is not allowed under that subdivision without a waiver and that granting a waiver would enable a merger that is supportive of one or more of the following:

(A) Increased cost-efficiencies.

(B) Increased educational opportunities.

(C) Enhanced student achievement.

(b) Elementary and secondary education.

(1) A Merged District 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 Merged District, operate as a K-12 district, receive the incentives as provided in Sec. 4 of this act, and be considered a unified union school district if the proposed Merged District implements either of the following options:

(A) The Merged District 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 Merged District pursuant to the provisions of 16 V.S.A. § 827.

(B) The Merged District operates one or more schools offering at least kindergarten through grade 8 for the resident students in those grades and provides for the education of students in all other grades by paying tuition pursuant to 16 V.S.A. § 824, provided that:

(i) The Merged District will neither operate a school offering the grades for which it pays tuition nor designate a school that offers those grades; and

(ii) For at least two fiscal years prior to the effective date of merger, none of the merging districts shall have operated a school offering the grades for which the Merged District will pay tuition.

(c) Supervisory unions and supervisory districts.

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

(2) A Merged District created under this act is a supervisory district consisting of a single unified union school district and shall not be assigned to a supervisory union pursuant to 16 V.S.A. § 706h.

(3) If a Merged District forms and does not include all school districts within one or more supervisory unions, then any school district that is a member of the same supervisory union as one or more of the merging districts and that does not merge to form the Merged District shall maintain its existing governance structure; provided, however, that upon vote of the electorate, the school district may notify the state board of education of its intent to operate as a supervisory district as defined in 16 V.S.A. § 11(24) or may request the state board to assign it to an existing supervisory union pursuant to 16 V.S.A. § 261.

(d) Operation of schools. A Merged District shall not close any school within its boundaries during the first four years after the effective date of merger or prior to fiscal year 2018, whichever is earlier, unless the electorate of the town in which the school is located consents to closure.

(e) Local participation. Because the Merged District 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 Merged District 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 Merged District may enroll in any school the Merged District operates, provided:

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

(2) each Merged District shall provide or shall provide access to secondary technical education for students residing within its boundaries; and

(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 Merged District 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 Merged District to pay tuition to that school.

(g) Curriculum. The Merged District shall have a Merged District-wide curriculum that meets the standards adopted pursuant to 16 V.S.A. § 165(a)(3) and that is approved by the Merged District board and is fully implemented no later than in the sixth year of the Merged District's existence. Merged Districts are encouraged to increase opportunities for students through prekindergarten programs, distance learning, dual enrollment, internships, and other programs.

(h) Employment and labor relations. On the first day of its existence, the Merged District 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 Merged District, until such time as the Merged District 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 Merged District;

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

(5) have reached an agreement with the recognized representatives of the employees, effective on the first day of the Merged District'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.

*Sec. 4. VOLUNTARY MERGER PROGRAM INCENTIVES*

(a) 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 Merged District 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, provided the years are prior to fiscal year 2018, that will be included as part of the plan that must be approved by the electorate in order to create the Merged District.

(B) A multiyear budget for the third and fourth fiscal years of its existence, provided the years are prior to fiscal year 2018, that is presented to the electorate for approval at the Merged District's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the Merged District may contain a provision authorizing the Merged District, beginning in the earlier of the fifth fiscal year of its existence or fiscal year 2018, to present multiyear proposed budgets to the electorate once in every two or three years.

(3) A Merged District that spends less than the budgeted amount prior to fiscal year 2018 shall be entitled to retain the budget surplus to lower its tax rate in fiscal year 2018 or after, or for another purpose approved by the electorate.

(b) Tax rates.

(1) Subject to the provisions of subdivision (3) of this subsection and notwithstanding any other provision of law, for no more than four consecutive years prior to fiscal year 2018:

(A) if the Merged District's approved annual education spending in one fiscal year is less than its education spending in the prior fiscal year, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by \$875.00;

(B) if the Merged District's approved annual education spending in one fiscal year is equal to its education spending in the prior fiscal year, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by \$750.00;

(C) if the Merged District's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by one percent or less, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by \$600.00;

(D) if the Merged District's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by more than one percent but not by more than two percent, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by \$400.00; and

(E) if the Merged District's approved annual education spending in one fiscal year is greater than its education spending in the prior fiscal year by more than two percent but not by more than four percent, then for purposes of calculating the Merged District's district spending adjustment for the year, the Merged District's education spending per equalized pupil shall be decreased by \$200.00.

(2) For purposes of determining the Merged District's district spending adjustment under this subsection for the first fiscal year of merger, the Merged District's education spending in the first fiscal year of merger shall be compared to the combined education spending of the merging districts from the fiscal year two years prior to the first fiscal year of merger increased by the percentage change in the New England Economic Partnership Cumulative Price Index for state and local government purchases of goods and services between the fiscal year two years prior to the first year of the Merged District's operation and the fiscal year one year prior to the first year of operation, as of November 15 prior to the first year of operation.

(3) During the years in which a Merged District's district spending adjustment is calculated pursuant to this subsection, the equalized property tax rate for each municipality within the Merged District shall not increase or decrease by more than five percent in a single year, nor shall the household income percentage increase or decrease by more than five percent in a single year.

(4) On and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the Merged

District for purposes of determining the homestead property tax rate for each town.

(c) 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 Merged District to its lender on borrowing in anticipation of any state school construction aid that was owed to a merging member of the Merged District as of the effective date of this act and has not been paid to the Merged District by the state as of July 1, 2016.

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

(1) if a Merged District closes a school building before the earlier of its fifth fiscal year or fiscal year 2018 and sells the school building, or an energy saving measure as contemplated in 16 V.S.A. § 3448f(g), then neither the Merged 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; 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.

(e) Merger support grant. If the merging districts of a Merged District 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 Merged District 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.

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

Sec. 5. [Deleted.]

*Sec. 6. REPORTS; RECOMMENDATIONS*

(a) On or before December 31, 2010, the commissioner of education shall report to the house and senate committees on education regarding the school boards that have voted to consider merger.

(b) On or before March 15, 2011, and in every January thereafter through 2017, the commissioner shall report to the house and senate committees on education regarding the status of merger discussions and votes.

(c) 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 Merged Districts 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.

(d) 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 (c) 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.

*Sec. 7. 16 V.S.A. § 261(e) is added to read:*

(e) Notwithstanding subsections (a)–(c) of this section, the state board shall not adjust the boundaries of a supervisory district consisting of one unified union school district unless the municipalities within the district approve the adjustment pursuant to subchapter 4, article 4 of chapter 11 of Title 16 and request the state board to make the adjustment.

*Sec. 8. MERGER TEMPLATE*

The department of education shall develop a merger template to assist subcommittees formed pursuant to 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 regarding Vermont municipalities. 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.

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

Sec. 9. 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. 10. 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.

\* \* \* Duties of Supervisory Unions and Superintendents; Special Education;  
Class Size; Delayed Effective Dates \* \* \*

Sec. 11. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

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 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 professional development programs or arrange for or enable 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;~~

~~(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 to 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;~~

~~(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 to joint agreements under section 267 of this title and in a manner that promotes the efficient use of financial and human resources;~~

~~(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 contracts may vary by district;~~

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

~~(F) provide human resources management support; and~~

~~(G) provide other appropriate services;~~

~~(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 unionwide truancy policies consistent with the model protocols developed by the commissioner.*

*(13)–(17) [Repealed.]*

*Sec. 12. 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;

(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. 13. 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. 14. REPEAL

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

Sec. 15. 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. 16. 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. 17. MINIMUM AND OPTIMAL CLASS SIZE POLICIES

(a) On or before July 1, 2012, the policy required by Sec. 12 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. 18. SPECIAL EDUCATORS; 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. 11 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 no nonprobationary employee of a member district shall 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.

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

**Sec. 19. RECOMMENDATIONS; SMALL SCHOOLS**

(a) 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.

(b) Before finalizing the proposal required in subsection (a) of this section, the commissioner, or the commissioner’s designee, shall visit all small schools for which the proposal may recommend the reduction or elimination of small school grant funding and shall discuss with the principal and school board of each visited school the school’s education program and quality and the school’s budget, financial viability, and reliance upon small school grant funding. The information obtained at these meetings shall be included with the proposal.

**Sec. 20. EFFECTIVE DATES**

(a) Secs 11–14 of this act shall take effect on July 1, 2012.

(b) This section and all other sections of this act shall take effect on passage, subject to the provisions of existing contracts.