

H.427

An act relating to making miscellaneous amendments to education law

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

\* \* \* Hazing; Cross-References \* \* \*

Sec. 1. 16 V.S.A. § 11(a)(30) is amended to read:

(30) "Hazing" ~~means any act committed by a person, whether individually or in concert with others, against a student in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization which is affiliated with an educational institution; and which is intended to have the effect of, or should reasonably be expected to have the effect of, humiliating, intimidating or demeaning the student or endangering the mental or physical health of a student. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in the above acts. Hazing may occur on or off the campus of an educational institution. Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:~~

~~(1) the goals are approved by the educational institution; and~~

~~(2) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions~~ shall have the

same definition as it has in section 140b of this title. The definitions of ~~educational institution, organization, pledging, and student~~ “educational institution,” “organization,” “pledging,” and “student” shall be the same as those in section ~~151~~ 140a of this title.

\* \* \* Auditors; Supervisory Unions; Required Reports \* \* \*

Sec. 2. 16 V.S.A. § 261a(10) is amended to read:

(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 ~~of state aid for special education awarded to~~ expended by the supervisory union for special education-related services, including ~~the amount generated by, and the amount allocated to~~ :

(A) A breakdown of that figure showing the amount paid by or attributable to each school district within the supervisory union.

(B) The services provided to each district by the supervisory union's use of the expended funds.

Sec. 2a. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a) An auditor shall not be town clerk, town treasurer, selectman, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of ~~their~~ official duties be eligible to hold office as auditor. A selectman or school director shall not be first constable, collector of taxes, town treasurer, auditor, or town agent. A selectman shall not be lister. A town manager shall not hold any elective office in the town or town school district. Election officers at local elections shall be disqualified as provided in section 2456 of this title.

(b) Notwithstanding subsection (a) of this section, if a school district prepares and reports its budget independently from the budget of the town and the school district is audited by an independent public accountant, a person shall be eligible to hold office as auditor even if that person's spouse holds office as a school director.

\* \* \* School District Budgets \* \* \*

Sec. 3. 16 V.S.A. § 563(11)(C) is amended to read:

(C) At a school district's annual 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 union school district or a supervisory union of which it is a member~~, and any tuition to be paid to a technical center;
- (ii) the specific amount of any deficit incurred in the most recently closed fiscal year and how the deficit was or will be remedied;
- (iii) the anticipated homestead tax rate and the percentage of household income used to determine income sensitivity in the district as a result of passage of the budget; including those portions of the tax rate attributable to ~~the union school and~~ supervisory union assessments; and

(iv) ~~in the case of a school district:~~

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

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

\* \* \* Union Districts \* \* \*

Sec. 4. 16 V.S.A. § 706f is amended to read:

§ 706f. CONTENTS OF WARNING ON VOTE TO ESTABLISH THE  
UNION

The warning for each school district meeting shall contain two articles in  
substantially the following form:

#### WARNING

The voters of the town (city, union, etc.) school district of        are  
hereby notified and warned to meet at        on the        day of        ,        , to vote by  
Australian ballot between the hours of        , at which time the polls will open,  
and, at which time the polls will close, upon the following articles of business:

Article I

Shall the town (city, union, etc.) school district of \_\_\_\_\_ which the State Board of Education has found (necessary or advisable) to include in the proposed union school district, join with the school districts of \_\_\_\_\_ and \_\_\_\_\_, which the State Board of Education has found necessary to include in the proposed union school district, and the school districts of \_\_\_\_\_ and \_\_\_\_\_, which the State Board of Education has found advisable to include in the proposed union school district, for the purpose of forming a union school district, as provided in Title 16, Vermont Statutes Annotated, upon the following conditions and agreements:

(a) Grades. The union school district shall operate and manage a school offering instruction in grades \_\_\_\_\_ through \_\_\_\_\_.

\* \* \*

Sec. 5. 16 V.S.A. § 721a(b) is amended to read:

(b) When a majority of the voters of a school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from a union school district the vote shall be certified by the clerk of the school district to the secretary of state who shall record the certificate in his or her office and give notice of the vote to the commissioner of education and to the other member districts of the union school district. ~~Those~~ Within 90 days after receiving notice, those member districts shall vote by Australian ballot on the

same day during the same hours whether to ratify withdrawal of the member district. Withdrawal by a member district shall be effective only if approved by an affirmative vote of each of the other member school districts within the union school district.

\* \* \* Tuition; Approved Independent Schools; Independent Schools Meeting  
School Quality Standards \* \* \*

Sec. 6. 16 V.S.A. chapter 21 is amended to read:

CHAPTER 21. MAINTENANCE OF PUBLIC SCHOOLS

§ 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY  
SCHOOLS OR PAY TUITION

\* \* \*

(b) Kindergarten program. Each school district shall provide public kindergarten education within the district. However, a school district may pay tuition for the kindergarten education of its pupils:

(1) at one or more public schools under subdivision (a)(1) of this section; or

(2) if the electorate authorizes the school board to pay tuition to one or more approved independent schools ~~approved by the state board or independent school meeting school quality standards~~, but only if the school district did not operate a kindergarten on September 1, 1984, and has not done so afterward.

\* \* \*

(d) Notwithstanding subsection (a) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for elementary pupils at approved independent nonresidential elementary schools or nonresidential independent schools meeting school quality standards upon request of a pupil's parent or guardian, if in the board's judgment the pupil's educational interests can be better served there. The board's decision shall be final in regard to the institution the pupil may attend.

§ 822. SCHOOL DISTRICTS TO MAINTAIN HIGH SCHOOLS OR PAY  
TUITION

(a) Each school district shall provide, furnish, and maintain one or more approved high schools in which high school education is provided for its pupils unless:

(1) The electorate authorizes the school board to close an existing high school and to provide for the high school education of its pupils by paying tuition in accordance with law. Tuition for its pupils shall be paid to ~~an approved a public or high school, an approved independent high school, or an independent school meeting school quality standards,~~ to be selected by the parents or guardians of the pupil, within or without the state; or

\* \* \*



(c) The school board may both maintain a high school and furnish high school education by paying tuition to a public school as in the judgment of the board may best serve the interests of the pupils, or to an approved independent school or an independent school meeting school quality standards if the board judges that a pupil has unique educational needs that cannot be served within the district or at a nearby public school. Its judgment shall be final in regard to the institution the pupils may attend at public cost.

§ 823. ELEMENTARY TUITION

\* \* \*

(b) The tuition paid to an approved independent elementary school or an independent school meeting school quality standards shall not exceed the lesser of: (1) the average announced tuition of Vermont union elementary schools for the year of attendance; or (2) the tuition charged by the independent school or independent school meeting school quality standards. However, the electorate of a school district may authorize the payment of a higher amount at an annual or special meeting warned for the purpose.

§ 824. HIGH SCHOOL TUITION

\* \* \*

(c) ~~For students in grades 7-12, the~~ The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for ~~students in grades 7-12 for~~ the year of attendance for its pupils enrolled in an

approved independent school not functioning as a Vermont area technical center, or any higher amount approved by the electorate at an annual or special meeting warned for that purpose.

\* \* \*

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

(a) A school board, or the board of trustees of an independent school meeting school quality standards or an approved independent school which proposes to increase tuition charges shall notify the school board of the school district from which its nonresident pupils come, and the commissioner, of the proposed increase on or before ~~February 1~~ January 15 in any year; such increases shall not become effective without the notice and not until the following school year.

(b) A school board or the board of trustees of an independent school meeting school quality standards or an approved independent school may establish a separate tuition for one or more special education programs. No such tuition shall be established unless the state board has by rule defined the program as of a type which may be funded by a separate tuition. Any such tuition shall be announced in accordance with the provisions of subsection (a) of this section. The amount of tuition shall reflect the net cost per pupil in the program. The announcement of tuition shall describe the special education

services included or excluded from coverage. Tuition for part-time pupils shall be reduced proportionally.

\* \* \*

§ 827. DESIGNATION OF AN INDEPENDENT HIGH SCHOOL AS THE  
PUBLIC HIGH SCHOOL OF A SCHOOL DISTRICT

(a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate an approved independent school or an independent school meeting school quality standards as the public high school of the district.

\* \* \*

(c) A parent or guardian who is dissatisfied with the instruction provided at the school or who cannot obtain for his child the kind of course or instruction desired there, or whose child can be better accommodated in an approved high school nearer his home, may request the school board to pay tuition to another approved high school.

(d) The school board may pay tuition to another approved high school as requested if in its judgment that will best serve the interests of the pupil. Its decision shall be final in regard to the institution the pupil may attend.

§ 828. TUITION TO APPROVED SCHOOLS, AGE, APPEAL

A school district shall not pay the tuition of a pupil except to a public ~~or~~ school, an approved independent school or, an independent school meeting

school quality standards, a tutorial program approved by the state board, or an independent school in another state or country approved under the laws of that state or country, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

\* \* \*

\* \* \* State-Placed Students \* \* \*

Sec. 7. 16 V.S.A. § 11(a)(28) is amended to read:

(28) “State-placed student” means:

(A) a Vermont pupil who has been placed in a school district other than the district of residence of the pupil’s parent, parents or guardian or in an approved residential facility by a Vermont state agency, a Vermont licensed child placement agency, a designated community mental health agency, or any other agency as defined by the commissioner; or

(B) a Vermont pupil who:

(i) is 18 years of age or older;

(ii) is living in a community residence as a result of placement by a Vermont state agency, a Vermont licensed child placement agency or a

designated community mental health agency, and whose residential costs are paid for in whole or in part by one of these agencies; and

(iii) resides in a school district other than the district of the pupil's parent or parents; or

(C) a pregnant or postpartum pupil attending school at an approved education program in a residential facility or outside the school district of residence pursuant to subsection 1073(b) of this title; or

(D) A Vermont pupil who:

(i) Is in either:

(I) The legal custody of the commissioner for children and families; or

(II) The temporary legal custody of an individual pursuant to subdivision 5308(b)(3) or (4) of Title 33, until a disposition order has been entered pursuant to section 5318 of that title; and

(ii) Is determined by the commissioner of education to be in particular need of educational continuity by attending a school in a district other than the pupil's current district of residence;

(E) “State placed student” But does not include pupils mean a pupil placed within a correctional facility or in the Woodside Juvenile Rehabilitation Center or The Eldred School operated by the Vermont State Hospital.

Sec. 8. 16 V.S.A. § 1075(b) and (c) are amended to read:

(b) The commissioner shall determine the legal residence of all state-placed students pursuant to the provisions of this section. In all other cases, the pupil's legal residence shall be determined by the board of school directors of the district in which the pupil is seeking enrollment or, if the pupil is seeking payment of tuition, the board of directors from which the pupil is seeking tuition payment. If a pupil is denied enrollment at any stage, the pupil and his or her parent or guardian shall be notified in writing, within 24 hours, of the provisions of this section. If the pupil is not in attendance as a result of a preliminary decision by school officials and a decision from the board of school directors will not be available by the end of the second school day after the request for enrollment is made, the commissioner may issue a temporary order requiring enrollment. Any interested person or taxpayer who is dissatisfied with the decision of the board as to the pupil's legal residence may appeal to the commissioner of education, who shall determine the pupil's legal residence, and the decision of the commissioner shall be final. Pending appeal under this subsection, the commissioner shall issue a temporary order requiring enrollment.

(c) State-placed students.

(1) A state-placed student, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated

by the school district in which the pupil is living, unless an alternative plan or facility for the education of the pupil is agreed upon by the commissioner of education. In the case of a dispute as to where a state-placed student is living, the commissioner shall conduct a hearing to determine which school district is responsible for educating the pupil. The commissioner's decision shall be final.

(2) If a pupil is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the department for children and families shall assume responsibility for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A pupil who is in temporary legal custody pursuant to subdivision 5308(b)(3) or (4) of Title 33 and is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the pupil's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the pupil's legal guardian resides, or the district in which the temporary legal custodian resides. If the pupil enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal

custodian is responsible for the pupil's transportation to and from school,  
unless the receiving district chooses to provide transportation.

(4) If a pupil who had been a state-placed student pursuant to  
subdivision 11(a)(28) of this title is returned to live in the district in which one  
or more of the pupil's parents or legal guardians reside, then, at the request of  
the pupil's parent or legal guardian, the commissioner of education may order  
the pupil to continue his or her enrollment for the remainder of the academic  
year in the district in which the pupil resided prior to returning to the parent's  
or guardian's district. Unless the receiving district chooses to provide  
transportation:

(A) If the pupil remains in the legal custody of the commissioner for  
children and families, then the department for children and families shall  
assume responsibility for the pupil's transportation to and from school.

(B) In all other instances under this subdivision (4), the parent or  
legal guardian is responsible for the pupil's transportation.

\* \* \* Base Education Payment; Base Education Amount \* \* \*

Sec. 9. 16 V.S.A. § 4001(13) is amended to read:

(13) "Base education ~~payment~~ amount" means a number used to  
calculate tax rates. The base education amount is \$6,800.00 per equalized  
pupil, adjusted as required under section 4011 of this title.



Sec. 10. 16 V.S.A. § 4011 is amended to read:

§ 4011. EDUCATION PAYMENTS

(a) Annually, the general assembly shall appropriate funds to pay for statewide education spending and a portion of a base education ~~payment~~ amount for each adult diploma student.

(b) For each fiscal year, the base education ~~payment~~ amount shall be \$6,800.00, increased by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services from fiscal year 2005 through the fiscal year, for which the ~~payment~~ amount is being determined, plus an additional one-tenth of one percent.

\* \* \*

(e) The commissioner shall pay an amount equal to 87 percent of the base education ~~payment~~ amount to the Vermont Academy of Science and Technology for each Vermont resident, 12th grade student enrolled.

(f) Annually, the commissioner shall pay to a department or agency which provides an adult diploma program, an amount equal to 26 percent of the base education ~~payment~~ amount for each student who completed the diagnostic portion of the program, based on an average of the previous two years.

(g) The commissioner shall pay to a school district a percentage of the base education ~~payment~~ amount for each resident student for whom the district is

paying a technical tuition to a regional technical center but who is not enrolled in the district and therefore not counted in the average daily membership of the district. The percentage of the base education ~~payment~~ amount to be paid shall be the percentage of the student's full-time equivalent attendance at technical center multiplied by 87 percent.

\* \* \*

Sec. 11. 16 V.S.A. § 1561 is amended to read:

§ 1561. TUITION REDUCTION

\* \* \*

(b) On behalf of a sending school district within Vermont, a technical center shall receive from the education fund for each full-time equivalent student from the district 87 percent of the base education ~~payment~~ amount and an equivalent amount shall be subtracted from the amount due to the sending district under section 4011 of this title. The amount sent to the technical center and subtracted from the sending district shall be considered a revenue and an expenditure of the district and shall be reported as such in appropriate accounts and in the district's annual budget.

(c) Annually, the general assembly shall appropriate funds to pay for a supplemental assistance grant per full-time equivalent student. The amount of the grant shall be equal to 35 percent of the base education ~~payment~~ amount for that year.

(d) In any year following a year in which fall semester full-time equivalent enrollment of students at a technical center increased by 20 percent or more over the previous fall semester, in addition to other aid, the technical center shall receive an extra supplemental assistance grant equal to two-thirds of the 35 percent of the base education ~~payment~~ amount for that year, multiplied by the actual full-time equivalent enrollment increase. The next year, if the increase in fall semester full-time equivalent enrollment is less than 20 percent, in addition to other aid, the technical center shall receive an extra supplemental assistance grant equal to one-third of the 35 percent of the base education ~~payment~~ amount for the year multiplied by the actual full-time equivalent increase of the previous fall semester.

Sec. 12. CONSISTENT USE OF TERM

Pursuant to its statutory revision authority at 2 V.S.A. § 424, the legislative council is directed to change the phrase “base education payment” wherever it may appear in the Vermont Statutes Annotated to “base education amount.”

\* \* \* School Construction Spending; Planning for Merger; Tuition \* \* \*

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

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) which is paid

for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fund raising, federal funds, nongovernmental grants, or other state funds such as special education funds paid under chapter 101 of this title. For purposes of determining whether a proposed budget shall be presented by means of a divided question pursuant to subdivision 563(11)(A) of this title and for purposes of calculating excess spending pursuant to subdivision 5401(12) of Title 32, “education spending” shall not include:

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

(B) For a project that received final approval for state construction aid under chapter 123 of this title:

(i) Spending for approved school capital construction that represents the district’s share of the project, including interest paid on the debt;

(ii) Payment of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving state aid for the project.

(C) Spending for that portion of tuition paid to an approved independent school designated as the public school of the school district

pursuant to section 827 of this title for capital construction costs by the independent school which has received approval from the state board of education, using processes for preliminary approval of public school construction costs pursuant to section 3448 of this title.

(D) Spending attributable to the cost of planning the merger of a small school, as that term is used in section 4015 of this title, with one or more other schools.

(E) Spending attributable to the district's share of spending for 21st Century Community Learning Centers after-school programs.

Sec. 14. TUITION; DIVIDED VOTE; EXCESS SPENDING

(a) Elementary school tuition. For purposes of determining if a proposed budget shall be presented by means of a divided question pursuant to 16 V.S.A. § 563(11)(A) and for purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), a school district that does not maintain an elementary school and provides for the education of its resident elementary students by paying tuition may choose to include within its “education spending” the lesser of:

(1) Its estimated elementary tuition expenditures for the budget year.

(2) The product of the estimated number of enrolled elementary pupils for the budget year multiplied by the average announced tuition for union elementary schools.

(b) Secondary school tuition. For purposes of determining if a proposed budget shall be presented by means of a divided question pursuant to 16 V.S.A. § 563(11)(A) and for purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), a school district that does not maintain a secondary school and provides for the education of its resident secondary students by paying tuition may choose to include within its “education spending” the lesser of:

(1) Its estimated secondary tuition expenditures for the budget year.

(2) The product of the estimated number of enrolled secondary pupils for the budget year multiplied by the average announced tuition for union high schools.

\* \* \* Adequate Yearly Progress \* \* \*

Sec. 15. Secs. 13 and 14 of No. 182 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 35 of No. 154 of the Acts of the 2007 Adj. Sess. (2008) are further amended to read:

~~Sec. 35. Secs. 13 and 14 of No. 182 of the Acts of the 2005 Adj. Sess. (2006) are amended to read:~~

Sec. 13. Sec. 2 of No. 64 of the Acts of 2003, as amended by Sec. 4 of No. 114 of the Acts of the 2003 Adj. Sess. (2004), is amended to read:

Sec. 2. COMPLIANCE WITH FEDERAL REQUIREMENTS; MEASURING  
ADEQUATE YEARLY PROGRESS TOWARD ACHIEVING  
STATE STANDARDS; CONSEQUENCES

16 V.S.A. § 165 authorizes the commissioner of education to determine how well schools and students are meeting state standards every two years and to impose certain consequences if schools are failing to meet standards after specific time periods. Notwithstanding the provisions of that section, in order to comply with the provisions of Public Law 107-110, known as the No Child Left Behind Act of 2001, ~~during school years 2003–2004 through 2008–2009~~ as amended from time to time (the “Act”), while it is in effect, the commissioner is authorized to determine whether schools and school districts are meeting state standards annually and the state board of education is authorized to impose on schools and school districts consequences allowed in state law and required by the Act within the time frame required in the Act. However, consistent with Title IX, Part E, Subpart 2, Sec. 9527 of the No Child Left Behind Act, neither the state nor any subdivision thereof shall be required to spend any funds or incur any costs not paid for under the Act in order to comply with the provisions of the Act. The state or any subdivision thereof may expend other funds for activities they were already conducting

consistent with the Act, or for activities authorized in a state or local fiscal year 2004 budget. It is the intent of the general assembly to continue to study the provisions of the federal law and to seek guidance from the federal government in order to determine permanent changes to Title 16 that will be necessary to comply with federal law and to avoid having federal law cause state and local governments to absorb the cost of unfunded mandates.

Sec. 14. Subsections (b), (c), and (e) of Sec. 3 of No. 64 of the Acts of 2003, as amended by Sec. 5 of No. 114 of the Acts of the 2003 Adj. Sess. (2004), are amended to read:

(b) Notwithstanding the provisions of 16 V.S.A. §§ 1075(e), 1093, and 1128(b) which stipulate that a child of parents who become homeless shall be educated in the school district in which the child is found and that a school district may choose not to accept nonresident pupils, in order to comply with the provisions of Public Law 107-110, known as the No Child Left Behind Act of 2001, as amended from time to time (the "Act"), the provisions of this section shall apply to children who are homeless during ~~school years~~ 2003–2004 through 2008–2009 those school years in which the Act is in effect.

It is the intent of the general assembly to continue to study the provisions of the federal law and to seek guidance from the federal government in order to determine permanent changes to Title 16 that will be necessary to comply with federal law.



(c) If a child becomes homeless during a school year ~~2005–2006, 2006–2007, 2007–2008, or 2008–2009~~ in which the Act is in effect, the child shall either be educated: in the school of origin for the duration of the homelessness or for the remainder of the academic year if the child becomes permanently housed outside the district of origin; or in the school district in which the child is actually living. The determination as to which school the child shall attend shall be made by the school board of the school district in which the child is living according to the best interests of the child.

(e) Notwithstanding the provisions of 16 V.S.A. § 4001(1)(A) which stipulate that a pupil must be a legal resident of the district attending a school owned and operated by the district in order to be counted in the average daily membership of the district, during the ~~2003–2004 through 2008–2009~~ school years in which the Act is in effect, a child who is homeless during the census period shall be counted in the school district or districts in which the child is enrolled. However, if at any time a homeless child enrolls, pursuant to this section, in a school district other than the district in which the child was counted, the district in which the child is enrolled shall become responsible for the education of the child, including payment of education services and, if appropriate, development and implementation of an individualized education plan.

\* \* \* Amendments to Session Law \* \* \*

Sec. 16. CODIFY EXISTING SESSION LAW RELATING TO REGIONAL  
SCHOOL CHOICE FOR PUBLIC SCHOOL STUDENTS IN  
GRADES 9 THROUGH 12

Pursuant to its statutory revision authority in 2 V.S.A. § 424, the legislative council is directed to codify Secs. 1 and 2 of No. 150 of the Acts of the 1999 Adj. Sess. (2000) (regional school choice for public school students in grades 9 through 12) as amended by Sec. 21 of No. 182 of the Acts of the 2005 Adj. Sess. (2006) (repealing the date on which the original act was scheduled to be repealed). Act 150, as amended, shall be codified as 16 V.S.A. §§ 1621–1622 in a new chapter 41 entitled “Chapter 41. Public High School Choice.”

\* \* \*

Sec. 17. REPEAL

Secs. 2 and 3 of No. 31 of the Acts of 2007 (statewide school calendar; committee; effective date) are repealed.

Sec. 18. Sec. 9.0001(d) of No. 192 of the Acts of the 2007 Adj. Sess. (2008) (sunset; teen parent education) is amended to read:

(d) Sec. 5.304.1 of this act shall take effect on July 1, 2008 ~~and shall remain in effect until July 1, 2009.~~

\* \* \* Council on Education Governance \* \* \*

Sec. 19. Sec. 71 of No. 68 of the Acts of 2003, as amended by Sec. 1 of No. 4 of the Acts of 2005, is further amended to read:

Sec. 71. COUNCIL ON EDUCATION GOVERNANCE, QUALITY, AND  
AFFORDABILITY

(a) The Vermont general assembly declares that:

(1) it is committed to providing all Vermont students the opportunity for a high quality education in an affordable and cost-effective manner to meet the expectations of local communities and the requirements of state and federal law; and

(2) it has a keen interest in addressing the matter of education governance in Vermont as it relates to helping to transform Vermont's education system for the 21st century in a manner that includes consideration of the work of the state board of education and participation by citizens and local education officials; and

(3) increasing concerns about the rising costs of education and declining enrollments, the ongoing quest for educational quality, and the influences of expanding state and federal policy directives, including those of the No Child Left Behind Act and the Individuals with Disabilities Education Act, add to the necessity for examining Vermont's education governance system, education quality, and educational affordability.

(b) There is established a council on education governance, quality, and affordability to consist of ~~three~~ two members of the senate, not all from the same party, chosen by the committee on committees; ~~three~~ two members of the house, not all from the same party, chosen by the speaker of the house; ~~the secretary of administration; the secretary of human services, or designee; a member of the state board of education chosen by the chair of the board;~~ two representatives of the business community chosen by the governor; two parents chosen jointly by the governor and the commissioner of education after consultation with organizations representing parents and children; a representative of school boards chosen by the school boards association; a representative of teachers chosen by the Vermont national teachers association; a representative of superintendents chosen by the superintendents association; and a representative of principals chosen by the principals association. It is the intent of the general assembly that council members, in addition to having knowledge about the needs and challenges facing people working in and served by Vermont's education system, shall be individuals who have knowledge of organization and systems development and who have the ability to analyze and communicate economic and educational data. The council may consult with anyone it believes will inform its work. The council shall receive staff services from the legislative council and the joint fiscal office. Members not otherwise compensated shall be entitled to per diem and expenses.

(c) The council shall gather information which will enable it to develop a comprehensive description of Vermont's current education governance system. Information gathered should include cost information; federal and state requirements and other factors which influence how services are delivered; efforts in other jurisdictions to achieve equity, affordability, and quality; and an examination of elements in the current system which work well, and those which inhibit effective and efficient delivery of education services.

(d) The council shall use this information to develop and implement a process for engaging a broad spectrum of Vermonters in a discussion of effective governance structures for delivery of public education with consideration of the need to address rising costs while maintaining Vermont's high quality education system.

(e) Following widespread public discussion, if the council determines that greater efficiencies and enhanced quality would result from modifications to the governance structure, it shall recommend legislation for consideration by the general assembly.

(f) ~~The~~ Beginning in January 2011, the council shall report to the ~~general assembly in January 2004 and 2005~~ house and senate committees on education on its progress together with its recommendations for legislation, including steps ~~which~~ that are necessary to comply with ~~the No Child Left Behind Act~~ federal law.

(g) The council shall ~~hold its first meeting by September 15, 2003 and shall~~  
finish its work and cease to exist on July 1, ~~2009~~ 2015.

(h) The council shall seek private sources of funding to enable it to gather  
data and develop a process for conducting a statewide discussion about  
education governance, and for implementing the process it develops.

#### Sec. 20. IMPLEMENTATION

Members of the council on education governance, quality, and affordability,  
as amended by Sec. 19 of this act, shall be appointed and the council shall meet  
by September 15, 2009.

\* \* \* Miscellaneous Technical Corrections \* \* \*

#### Sec. 21. UPDATING STATUTES TO REFLECT CURRENT NAMES OF PROGRAMS AND DEPARTMENTS

Pursuant to its statutory revision authority in 2 V.S.A. § 424, the legislative  
council is directed to amend Title 16:

(1) By replacing the term “adult basic education” with the term “adult  
education and literacy” wherever it appears.

(2) By updating references to the names of departments, divisions,  
programs, and other subgroups within the agency of human services wherever  
they appear.

\* \* \* Effective Dates \* \* \*

Sec. 22. EFFECTIVE DATES

(a) This act shall take effect on passage.

(b) Sec. 6 of this act shall apply to tuition rates established for the 2010–2011 academic year and after.

(c) Sec. 13 of this act shall apply retroactively to proposed school district budgets for the 2009–2010 academic year and after, except subdivision 4001(6)(E), which shall apply to proposed school budgets for the 2010–2011 academic year and after.

(d) Sec. 14 of this act shall apply to proposed school district budgets for the 2010–2011 academic year and after.