

H.427

An act relating to making miscellaneous amendments to education law

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * 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. 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.

* * * Audits and Auditors * * *

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 each school district within the supervisory union, including the justification for that breakdown.

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

Sec. 3. 16 V.S.A. § 323 is amended to read:

§ 323. AUDIT BY PUBLIC ACCOUNTANT

Annually, the supervisory union board shall employ a public accountant to audit the financial statement of the supervisory union. The audit shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report of internal controls over financial reporting that shall be provided to recipients of the financial statements. Any annual report of the supervisory union to member districts shall include notice that an audit has been performed.

Sec. 4. 16 V.S.A. § 563(17) is amended to read:

(17) Shall employ a public accountant at least once in each period of three years to audit the financial statements of the school district. However, if the town has voted to eliminate the office of auditor under section 2651b of Title 17, the school board shall employ a public accountant annually to audit the financial statements of the school district pursuant to that section. Audits performed by public accountants shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report of internal controls over financial reporting that shall be provided to

recipients of the financial statements. The school board may authorize an audit in conjunction with another school district or a supervisory union.

Sec. 5. 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. 6. 16 V.S.A. § 563(11)(B)(ii) is amended to read:

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

~~“School Budget Question #1:~~

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

~~“School Budget Question #2:~~

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

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

“Article #1 (School Budget):

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

Part B. If Part A is approved by the voters, shall the
voters also authorize the school board to expend
\$ _____, which is the remainder of the proposed budget
that exceeds inflation?"

Sec. 7. 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. 8. 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. 9. 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 * * *

Sec. 10. 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

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

(1) The electorate authorizes the school board to provide for the elementary education of the pupils residing in the district by paying tuition in accordance with law to one or more public elementary schools in one or more school districts.

* * *

(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 schools 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.

(c) Notwithstanding subsection (a) of this section, a school board without previous authorization by the electorate may pay tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there due to geographic considerations. ~~The board's decision shall be final in regard to the institution the pupil may attend.~~ A parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, whose decision shall be final.

(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 an elementary pupils pupil at an approved independent nonresidential elementary schools school upon request of a notice given by the pupil's parent or legal 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 before April 15 for the next academic year; provided the board shall pay tuition for the pupil in an amount not to exceed the least of:

(1) The statewide average announced tuition of Vermont union elementary schools.

(2) The average per-pupil tuition the district pays for its other resident elementary pupils in the year or years in which the pupil is enrolled in the approved independent school.

(3) The tuition charged by the approved independent school in the year or years in which the pupil is enrolled.

§ 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. 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

(a) Tuition for high school pupils shall be paid by the school district in which the pupil is a resident.

(b) Except as otherwise provided for technical students, the district shall pay the full tuition charged its pupils attending a public high school in Vermont or an adjoining state, or a public or approved independent school in Vermont functioning as an approved area technical center, or an independent school meeting school quality standards; provided:

(1) If a payment made to a public high school or an independent school meeting school quality standards is three percent more or less than the calculated net cost per secondary pupil in the receiving school district or independent school for the year of attendance then the district or school shall be reimbursed, credited, or refunded pursuant to section 836 of this title.

(2) Notwithstanding the provisions of this subsection or of subsection 825(b) of this title, the ~~boards~~ board of the receiving ~~and sending districts or independent schools~~ public school district, public or approved independent school functioning as an area technical center, or independent school meeting school quality standards may enter into tuition agreements with the boards of sending districts that have terms differing from the provisions of those subsections, provided that the receiving district or school must offer identical

terms to all sending districts, and further provided that the statutory provisions apply to any sending district that declines the offered terms.

(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 ~~which~~ that 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 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 A PUBLIC HIGH SCHOOL OR AN
APPROVED INDEPENDENT HIGH SCHOOL AS THE SOLE
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 a public school as the public high school of the district.

(b) ~~When~~ Except as otherwise provided in this section, if the board of trustees or the school board of ~~such~~ the designated school votes to accept this designation the school shall be regarded as a public school for tuition purposes under subsection 824(b) of this title and the sending school district shall pay tuition to ~~the~~ that school only, until such time as the sending school district or ~~the board of trustees of the~~ designated school votes to rescind the designation.

(c) A parent or legal guardian who is dissatisfied with the instruction provided at the designated school or who cannot obtain for his or her child the kind of course or instruction desired there, or whose child can be better

accommodated in an approved independent or public high school nearer his or her home, ~~may request~~ shall notify the school board before April 15 of the decision to enroll the child in another school in the next academic year and the school board to shall pay tuition to another the approved independent or public high school selected by the parent; provided the board shall pay tuition for the pupil in an amount not to exceed the least of:

(1) The statewide average announced tuition of Vermont union high schools.

(2) The per-pupil tuition the district pays to the designated school in the year or years in which the pupil is enrolled in the nondesignated school.

(3) The tuition charged by the approved nondesignated school in the year or years in which the pupil is enrolled.

~~(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. 11. 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. 12. 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 and the pupil will continue to be funded as a state-placed student. 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. 13. 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. 14. 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. 15. 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. 16. 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;
Programs for At-Risk Students * * *

Sec. 17. 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, “education spending” shall not include:

(A) Spending during the budget year 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 during the budget year that represents the district’s share of the project, including interest paid on the debt;

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

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

(D) For a district that provides for the education of its resident pupils in one or more grades by paying tuition and does not maintain a school that

includes the grade or grades, the district's anticipated spending for tuition in the year for which the budget is proposed.

(E) Spending during the budget year attributable to the costs of providing alternative educational opportunities designed to encourage at-risk high school students to remain enrolled in and to graduate from high school, whether offered by the district or a contracting entity.

* * * Higher Education * * *

Sec. 18. 6 V.S.A. § 20 is added to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL
LOAN REPAYMENT FUND

(a) There is created a special fund to be known as the Vermont large animal veterinarian educational loan repayment fund that shall be used for the purpose of ensuring a stable and adequate supply of large animal veterinarians throughout the state. The fund shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this section. The money in the fund shall be invested in the same manner as permitted for investment of funds belonging to the state or held in the treasury.

(b) The fund shall consist of:

(1) Sums appropriated or transferred to it from time to time by the general assembly, the state emergency board, or the joint fiscal committee when the general assembly is not in session.

(2) Interest earned from the investment of fund balances.

(3) Sums from any other public or private source accepted for the benefit of the fund.

(c) The agency shall administer the fund and make sums available for loan repayment awards. The agency may contract with a Vermont nonprofit entity for administration of the program, which shall administer awards in compliance with the requirements of Section 108(f) of the Internal Revenue Code.

Sec. 19. LARGE ANIMAL VETERINARIANS; EDUCATIONAL LOAN
REPAYMENT PROGRAM; PROPOSAL AND REPORT

(a) There is created a committee to explore the development of a loan repayment program to recruit and retain licensed veterinarians to meet the existing need for large animal veterinarians throughout the state. The committee shall also consider other incentives and outreach efforts to ensure that Vermonters are able to obtain the necessary education or training to work in this field. The committee shall review available Vermont veterinarian workforce data and consider priorities and criteria on which to base awards. It

shall develop recommendations for a loan repayment program, including details concerning the proposed application process. The committee shall identify potential funding sources.

(b) The members of the committee shall be:

(1) The secretary of agriculture, food and markets or the secretary's designee, who shall serve as chair and shall call the first meeting of the committee on or before July 1, 2009.

(2) The Vermont state veterinarian or the state veterinarian's designee.

(3) The president of the Vermont veterinary medical association or the president's designee.

(4) The secretary of commerce and community development or the secretary's designee.

(5) A member of the Vermont workforce development council to be selected by the governor.

(6) A representative of the higher education community to be jointly selected by the speaker of the house and the senate committee on committees.

(7) The director of the area health education centers program of the University of Vermont or the director's designee.

(8) The president of the Vermont student assistance corporation or the president's designee.

(c) On or before December 1, 2009, the committee shall present a detailed

proposal to the senate and house committees on education and on agriculture
outlining recommendations designed to promote the purposes of this section.

Sec. 20. EDUCATIONAL LOAN REPAYMENT; 2009 INTERIM

(a) If private funds are deposited into the Vermont large animal
veterinarian educational loan repayment fund created in Sec. 18 of this act
before a loan repayment program is developed and implemented under Sec. 19
of this act, then notwithstanding any provision of law to the contrary, the
secretary of agriculture, food and markets may use the money to repay a
portion of the outstanding educational loans of one or more licensed
veterinarians in exchange for the service commitment to work in the large
animal veterinary field in Vermont for a defined number of years, which shall
be defined by contract. The secretary may enter into a contract with an entity,
such as the area health education centers program of the University of
Vermont, to help administer the provisions of this section, and may pay the
entity for its administrative costs from fund monies. Payment of awards shall
be made directly to the educational loan creditor of the award recipient and
shall be available only to a veterinarian who:

(1) Is licensed in Vermont;

(2) Provides large animal veterinarian services in Vermont; and

(3) Has outstanding educational debt acquired in the pursuit of an undergraduate or graduate degree from an accredited college or that exceeds the amount of the loan repayment award.

(b) For purposes of this section, "large animal veterinarian" means a doctor of veterinary medicine accredited by the United States Department of Agriculture who spends at least 60 percent of his or her working veterinary hours in Vermont treating or otherwise servicing food animals, including beef or dairy cows, sheep, pigs, poultry, and others identified by the secretary.

(c) The secretary shall report to the senate and house committees on education and on agriculture regarding:

(1) Private monies received under subsection (a) of this section, within 14 days after receiving the money.

(2) The decision to make some or all of the private monies available for educational loan repayment under this section and the criteria on which the award decisions will be made, at least 14 days prior to announcing publicly the availability of the funds.

(3) The payment of awards, within 14 days after making payment to the creditor of the award recipient.

(d) This section shall take effect on passage and shall remain in effect until June 30, 2010.

Sec. 21. [Deleted]

* * * Adequate Yearly Progress * * *

Sec. 22. 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.

* * * Miscellaneous * * *

Sec. 23. WAIVERS; SCHOOL QUALITY STANDARDS

(a) The general assembly:

(1) Is committed to promoting the flexibility needed to transform Vermont's educational system.

(2) Authorizes the commissioner of education to grant waivers from compliance with any standards of school quality set forth in 16 V.S.A. § 165 or elsewhere in statute or board rule that the commissioner determines:

(A) Is duplicative; or

(B) Impedes:

(i) The efficient operation of a district or supervisory union; or

(ii) The use of innovative and effective methods to promote learning through which a student may achieve or exceed the expectations of the Vermont Framework of Standards and Learning Opportunities.

(3) Encourages school district and supervisory union boards to request waivers from the commissioner pursuant to subdivision (2) of this subsection.

(b) On or before March 1, 2010, the commissioner shall report to the senate and house committees on education regarding waivers requested and granted under this section. The report shall highlight innovative approaches for which waivers were granted and describe the manner in which the commissioner has informed other districts and supervisory unions of these innovations.

Sec. 24. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC
SCHOOLS; 21ST CENTURY FUND

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family child care home without registration from the department.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

* * *

(5) An after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by the department of education, unless the after-school program asks to participate in the child care subsidy program.

* * *

~~(g) In order to facilitate school districts and supervisory unions to apply for and receive federal funds provided by the United States 21st Century Fund, on or before September 1, 2001, the agency of human services for programs that are in and operated by public schools and provide schoolage care before and after school hours shall:~~

~~(1) Accept existing permits and certificates obtained and plans developed by the school as satisfying licensing requirements without further application or review, including permits, certificates, and plans relating to water and wastewater disposal permit, asbestos abatement, insurance, and occupancy.~~

~~(2) Waive compliance with No. 165 of the Acts of 1996 or No. 37 of the Acts of 1997 relating to the abatement of lead paint hazards if the program serves no children who are less than five years old.~~

~~(3) Require screening of all program staff members against the child abuse registry, and require a criminal records check of any program staff member who is not currently a school employee or an employee of a school contractor already subject to a criminal record check as part of the hiring process.~~

* * *

Sec. 25. 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. 26. REPEAL

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

Sec. 27. 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~~ 2010.

Sec. 28. 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.

Sec. 29. REPEAL

(a) Sec. 17 of No. 66 of the Acts of 2007 (using a 40-day census period for calculating average daily membership) is repealed.

(b) Sec. 18(b) of No. 66 of the Acts of 2007 (effective date for Sec. 17 of No. 66 of 2007) is repealed.

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

(a) This act shall take effect on passage.

(b) Sec. 6 of this act, 16 V.S.A. § 826, shall apply to tuition rates established for the 2010–2011 academic year and after.

(c) Sec. 17 of this act shall apply to proposed school budgets for the 2010–2011 academic year and after.