

Journal of the House

Friday, April 30, 2010

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Doug Carter of the Danville United Church.

Joint Resolution Referred to Committee

J.R.H. 48

Joint resolution urging Congress to enact H.R. 2754 that would amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment Program

Offered by: Representatives Poirier of Barre City, Donahue of Northfield, Donovan of Burlington, Fisher of Lincoln, Keenan of St. Albans City, Larson of Burlington, Milkey of Brattleboro, O'Brien of Richmond, Spengler of Colchester, Taylor of Barre City and Wizowaty of Burlington

Whereas, every person in Vermont and the United States deserves access to affordable, high-quality health care, and

Whereas, there is a growing health care crisis in the United States due to an insufficient number of primary care doctors, and

Whereas, nurses are advocates and educators providing care for individuals, families, and communities, and

Whereas, nurse-managed health clinics provide to the residents of rural and urban underserved communities a full range of health care services based on the nursing model, including primary care, wellness care services, and mental health and substance abuse support services, and

Whereas, there are more than 200 nurse-managed health clinics currently in operation in the United States, and these clinics annually record over 2,000,000 client visits, and

Whereas, nurse-managed health clinics meet the Institute of Medicine's definition of safety-net provider by providing care regardless of their patients' ability to pay, and

Whereas, approximately 75 percent of health care spending in the United States is related to chronic care, and approximately 133,000,000 people in the United States (45 percent of the population) have at least one chronic disease, and these diseases account for 81 percent of hospital admissions, 91 percent of all prescriptions filled, and 76 percent of all physician visits, and

Whereas, as new strategies for increasing health coverage are implemented, utilization of nurse-managed health clinics will help meet the increased demand arising from newly covered individuals while alleviating current primary care physician shortages, and

Whereas, in recognition of the growing need of nurse-managed health clinics, U.S. Senate Report 109-103 contained a call for the federal Bureau of Primary Health Care (BPHC) to “consider establishing a grant program that would support the establishment or expansion of nurse practice arrangements commonly referred to as nurse-managed health clinics,” and

Whereas, U.S. Representative John Conyers, Jr., has introduced H.R. 2754 to amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment Program, and

Whereas, H.R. 2754 would establish a grant program within BPHC that is a better fit for the changing role of nurse-managed health clinics and that would provide nurse-managed health clinics access to a stable source of funding, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to enact H.R. 2754 to amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment Program, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation and to the Vermont Nurse Practitioners’ Association.

Which was read and, in the Speaker’s discretion, treated as a bill and referred to the committee on Health Care.

Third Reading; Bill Passed in Concurrence with Proposal of Amendment

S. 263

Senate bill, entitled

An act relating to the Vermont Benefit Corporations Act

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Proposal of Amendment Agreed to; Read Third Time and Passed in
Concurrence with Proposal of Amendment**

S. 292

Senate bill, entitled

An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees

Was taken up and pending third reading of the bill, **Reps. Lorber of Burlington, Branagan of Georgia and Haas of Rochester** moved that the House proposal of amendment be amended as follows:

By adding seven new Secs. to read:

Sec. 16. 13 V.S.A. § 7030(a) is amended to read:

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, the impact on minor children if any, and the risk to self, others, and the community at large presented by the defendant:

(1) A deferred sentence pursuant to section 7041 of this title.

(2) Probation pursuant to ~~section~~ 28 V.S.A. § 205 of Title 28.

(3) Supervised community sentence pursuant to ~~section~~ 28 V.S.A. § 352 of Title 28.

(4) Sentence of imprisonment.

Sec. 17. 28 V.S.A. § 102(b)(17) is added to read:

(17) To request information from each inmate about minor children. Information the commissioner may request includes: how many children the inmate has; who is the primary caregiver for the children; each child's date of birth and gender; and what living arrangements have been made for the children and the place of residence.

Sec. 18. 28 V.S.A. § 102(b)(5) is amended to read:

(5) To order the assignment and transfer of persons committed to the custody of the commissioner to correctional facilities, including out-of-state facilities. However, the commissioner shall consider family connections in determining in which facility to place an inmate and shall attempt to locate each inmate as close to his or her minor children as possible.

Sec. 19. 28 V.S.A. § 701 is amended to read:

§ 701. COMMITMENT TO THE CUSTODY OF THE COMMISSIONER

* * *

(b) The commissioner shall have the authority to designate the place of confinement where the sentence shall be served. However, the commissioner shall consider family connections in determining in which facility to place an inmate and shall attempt to locate each inmate as close to his or her minor children as possible.

* * *

(e) Upon entry into the system, whether convicted of an offense or not, the person shall be asked if he or she is a primary caregiver for a minor child. If the answer is affirmative, department personnel shall ask how the child is being cared for in the caregiver's absence and, if appropriate, ask the department for children and families to intervene on the child's behalf.

Sec. 20. COMMISSIONER OF CORRECTIONS; FAMILIES; DATA COLLECTION

(a) The commissioner shall gather information which will help policy makers develop policies that will work to nurture and enhance relationships between children and their incarcerated parents. Information gathered shall include:

- (1) The number of children who have a parent in prison.
- (2) What living arrangements are made for these children.
- (3) How frequently and in what form children and their incarcerated parents have contact.
- (4) Barriers to more frequent contact between children and their incarcerated parents.
- (5) The percentage of children who are successfully reunited with their parents after release.
- (6) How often a child is used to smuggle illegal substances into a Vermont prison.
- (7) The number of inmates who have a parent who was incarcerated.

(b) The commissioner shall present the data gathered pursuant to subsection (a) of this section and any other data the commissioner believes would help policy makers as they consider how to nurture family relationships among inmates and their children to the senate committee on judiciary and the

house committee on corrections and institutions on or before each January 15 during the years 2011–2016.

Sec. 21. COMMISSIONER OF CORRECTIONS; FAMILIES; CONTACT POLICIES

(a) The commissioner of corrections shall examine department of corrections (DOC) policies regarding use of the mail, telephone, and personal visits and revise them to make them more family friendly as appropriate. In redesigning these policies, the DOC shall take special care to consider them from the point of view of the child who may be affected by them as well as the security of the facility. Specifically, the commissioner shall:

(1) Revise policies and practices to better promote daily, affordable telephone contact between incarcerated parents and their children. The commissioner shall consider alternatives, for example, installation of a toll-free telephone line.

(2) Eliminate any existing policy which limits telephone calls and visitation as a disciplinary measure.

(3) Examine the policies adopted and followed by individual facilities and determine ways to revise them to be more child-friendly for visits.

(b) The commissioner shall report on actions he or she has taken to enhance family visits to the senate committee on judiciary and the house committee on corrections and institutions on or before each January 15.

Sec. 22. CHILDREN OF ARRESTED AND INCARCERATED PARENTS; POLICIES, GUIDELINES, AND PROCEDURES; AGENCY REPORTS

(a) It is the policy of the state of Vermont that, in order to reduce recidivism and intergenerational incarceration, the well-being of children shall be considered at every step of the process when it becomes necessary to arrest and incarcerate their parents. Therefore, state agencies and others involved in the criminal justice system shall develop policies, guidelines, and procedures designed to ensure that children of arrested and incarcerated parents are informed and kept safe at the time of a parent's arrest, are considered when decisions are made about a parent, are well cared for when the parent is absent, and are able to spend quality time with an incarcerated parent unless contact would be detrimental to the child. Each agency head or judge listed in this section shall present a draft of the policies, guidelines, and procedures as requested in this section to the corrections oversight committee on or before December 15, 2010. Following discussion with the corrections oversight

committee, the agency head or judge may revise the policies, guidelines, or procedures and shall then adopt and follow them when working with arrested or incarcerated parents of minor children.

(b) In this section, “minor child” means a person under the age of 18.

(c) The attorney general, in consultation with the executive director of the department of sheriffs and state’s attorneys, shall establish guidelines for prosecutors to use when prosecuting the parent of a minor child. The guidelines shall consider:

(1) the need of the child to be informed about the process;

(2) the need of the child to maintain quality contact with the parent; and

(3) the impact of any proposed sentence on termination of parental rights under the Federal Adoption and Safe Families Act of 1997.

(d) The administrative judge shall establish a policy which requires a family impact statement prior to sentencing a parent of a minor child, and which requires the judge when setting the sentence to consider the impact of any proposed sentence on termination of parental rights under the Federal Adoption and Safe Families Act of 1997.

(e) The commissioner of corrections shall:

(1) evaluate whether policies and procedures regarding family contact should be revised, and whether the geographic location of currently incarcerated parents of a minor child should be changed in order to ensure appropriate and maximum visitation and engagement between an inmate and his or her minor child;

(2) establish policies and procedures for ensuring appropriate and maximum visitation and engagement between an inmate and his or her minor child; and

(3) establish policies and procedures to ensure that the needs of families with a minor child are considered when setting up conditions of probation or parole.

(f) The commissioner for children and families shall evaluate whether caregivers of a minor child of an incarcerated parent are receiving support adequate to facilitate normal child development while reducing recidivism and intergenerational incarceration, and shall establish guidelines regarding the supports that caregivers and minor children should receive while a parent is incarcerated.

and by renumbering the remaining Sec. to be numerically correct

Which was agreed to. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

**Third Reading; Bill Passed in Concurrence
with Proposal of Amendment**

S. 103

Senate bill, entitled

An act relating to the study and recommendation of ignition interlock device legislation

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Third Reading; Bill Passed in Concurrence with Proposal of Amendment

S. 187

Seante bill, entitled

An act relating to municipal financial audits

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Consideration Interrupted by Recess

S. 297

Senate bill, entitled

An act relating to miscellaneous changes to education law

Was taken up and pending third reading of the bill, **Rep. McAllister of Highgate** moved to amend the House proposal of amendment by striking sec. 11 and inserting in lieu thereof:

Sec. 11. DRIVER EDUCATION: CONDITIONAL REPEAL

If the budget bill, H.789, as enacted, does not include appropriations for fiscal year 2011 sufficient to provide 100 percent funding to local school districts for driver education for fiscal year 2011, then 16 V.S.A. §§ 1045, 1046, 1047, 1047a and 1048 shall be repealed as of July 1, 2010.

Recess

At ten o'clock and twenty-five minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At ten o'clock and forty-five minutes in the forenoon, the Speaker called the House to order.

Consideration Resumed; Action Postponed**S. 297**

Consideration resumed on Senate bill, entitled

An act relating to miscellaneous changes to education law;

Pending the question, Shall the House proposal of amendment be amended as recommended by Rep. McAllister of Highgate? on motion of **Rep. Deen of Westminster**, action on the bill was postponed until the end of the orders of the day.

Senate Proposal of Amendment Concurred in**H. 622**

The Senate proposed to the House to amend House bill, entitled

An act relating to solicitation by prescreened trigger lead information

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 10206 is added to read:

§ 10206. TRIGGER LEAD SOLICITATIONS FOR MORTGAGE LOANS**(a) In this section:**

(1) “Consumer” means a natural person residing in this state.

(2) “Trigger lead” means information about a consumer, including the consumer’s name, address, telephone number, and an identification of the amount, terms, or conditions of credit for which the consumer has applied, that is:

(A) a consumer report obtained pursuant to section 604(c)(1)(B) of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681b, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for a mortgage loan; and

(B) furnished by the consumer-reporting agency to a third party that is not affiliated with the financial institution or the credit-reporting agency. A trigger lead does not include information about a consumer obtained by a lender that holds or services the existing mortgage indebtedness of the consumer who is the subject of the information.

(3) “Trigger lead solicitation” means a written or verbal offer or attempt to sell any property, rights, or services to a consumer based on a trigger lead.

(b) A person conducting a trigger lead solicitation shall disclose to a consumer in the initial phase of the solicitation that:

(1) the person is not affiliated with the financial institution to which the consumer has submitted an application for credit;

(2) the financial institution to which the consumer has submitted an application for credit has not supplied the person with any personal or financial information; and

(3) the name of the person who paid for the trigger lead solicitation.

(c) A financial institution which has had its name, trade name, or trademark misrepresented in a trigger lead solicitation in violation of this section may, in addition to any other remedy provided by law, bring an action in superior court in the county of its primary place of business, or if its primary place of business is located outside Vermont, in Washington superior court. The court shall award damages for each violation in the amount of actual damages demonstrated by the financial institution or \$5,000.00, whichever is greater. In any successful action for injunctive relief or for damages, the court shall award the financial institution reasonable attorney's fees and costs, including court costs.

Sec. 2. EFFECTIVE DATE

This act shall take July 1, 2010.

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 243

The Senate proposed to the House to amend House bill, entitled

An act relating to the creation of a mentored hunting license;

By adding Secs. 5 and 6 to read as follows:

Sec. 5. DEPARTMENT OF FISH AND WILDLIFE REPORT ON MENTORED HUNTING

On or before January 15 annually, the commissioner of fish and wildlife shall report to the senate committee on natural resources and energy and the house committee on fish, wildlife and water resources regarding implementation of the mentored hunting license program under 10 V.S.A. § 4256. The report shall include:

(1) The number of mentored hunting licenses issued in the previous calendar year;

(2) The number of deer or other game taken by a mentored hunter in the previous calendar year, if discernible;

(3) A summary of each hunter safety incident or personal injury related to an individual hunting under a mentored license that occurred in the previous calendar year; and

(4) Any recommendation by the commissioner to improve or address implementation of the mentored hunting program, including whether 10 V.S.A. § 4256 should be amended or repealed.

Sec. 6. EFFECTIVE DATE

This act shall take effect January 1, 2011.

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Not Concurred in;

H. 229

The Senate proposed to the House to amend House bill, entitled

An act relating to mausoleums and columbaria;

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 5577 is amended to read:

§ 5577. MAUSOLEUM BECOMING UNTENABLE

If, in the opinion of the ~~state board~~ commissioner of health, a mausoleum, vault, crypt, or structure containing one or more deceased human bodies becomes a ~~menace to~~ public health hazard, and the owner or owners ~~thereof of the structure~~ fail to remedy or remove the ~~same~~ hazard to the satisfaction of the ~~state board~~ commissioner of health, the commissioner or a court of competent jurisdiction may order the ~~person, firm or corporation owning such~~ owner of the structure to abate the public health hazard or to remove the body or bodies for interment in some suitable cemetery at the expense of the ~~person, firm or corporation owning such~~ owner of the mausoleum, vault, or crypt. When ~~such person, firm or corporation can not~~ the owner cannot be found ~~in the county where such mausoleum, vault or crypt is located, then such~~ removal and interment shall be at the expense of the cemetery or cemetery association, city or town where such or the municipality in which the mausoleum, vault, or crypt is situated.

Sec. 2. REPEAL

18 V.S.A. §§ 5073, relating to construction requirements for mausoleums, columbaria, crypts, and niches, and 5074, relating to inspection of mausoleums and columbaria, are repealed.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Savage of Swanton** moved that the House refuse to concur, which was agreed to.

Action on Bill Postponed

H. 767

House bill, entitled

An act relating to the livestock care standards advisory council

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendmet? on motion of **Rep. Conquest of Newbury**, action on the bill was postponed until the next legislative day.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 207

Rep. Ainsworth of Royalton, for the committee on Agriculture, to which had been referred Senate bill, entitled

An act relating to handling of milk samples;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. MEETING CONCERNING PRELIMINARY INCUBATION COUNTS

(a) The secretary of agriculture, food and markets or the secretary's designee shall convene a meeting of persons with knowledge of Vermont's dairy industry by July 1, 2010 for the purpose of developing consensus findings and recommendations regarding the use of the preliminary incubation (PI) count of raw milk as a quality indicator.

(b) Participants invited shall include organic and conventional dairy producers and handlers, representatives from farm organizations, laboratory researchers, dairy haulers, employees of the agency of agriculture, food and markets, and representatives from Vermont colleges and universities.

(c) Participants shall discuss, at a minimum, proper milk sample handling protocol, buyer and producer responsibilities in addressing PI count problems, and the availability to producers of technical assistance, information, procedures, and access to laboratory results.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Recess

At ten o'clock and fifty-five minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At twelve o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Bill Amended; Third Reading Ordered

H. 782

Rep. Peltz of Woodbury, for the committee on Education, to which had been referred House bill, entitled

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

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intent of the general assembly:

(1) to ensure that any change to the governance structure of the Vermont educational system will create better opportunities for students, reasonably increase economies of scale, preserve a sense of community, and provide incentives for cost efficiencies available in personnel assignment and the management of resources;

(2) to provide technical assistance, incentives, and statutory changes to encourage voluntary merger of school districts;

(3) to assist schools and education governing units to use meaningful, standardized metrics for evaluating programs, comparing local, national, and international student data, and assessing and identifying system improvements;

(4) to ensure that there are meaningful methods to analyze the costs and benefits of resource allocations;

(5) to make effective use of technology to expand educational opportunities for all students; and

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

* * * School District Merger Incentive Program * * *

Sec. 2. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district, as defined in 16 V.S.A. § 722 or as provided in Sec. 3(b) of this act, created on or before July 1, 2016 by the voluntary merger of existing school districts pursuant to Sec. 3 of this act.

(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 contiguous 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 schools. Contiguous school districts, which may include one or more union school districts, may merge to form a unified union school district ("UUSD") pursuant to chapter 11 of Title 16 that, except as provided in subsection (k) of this section, shall have an average daily membership of at least 1,250 or result from the merger of at least five districts, or both.

(b) Elementary and secondary education. A UUSD shall operate one or more approved public schools offering elementary and secondary education as required by 16 V.S.A. § 722; provided, however:

(1) A proposed UUSD shall be deemed to operate grades 9 through 12 as required by 16 V.S.A. § 722 if it will designate, pursuant to the provisions of 16 V.S.A. § 827, either a Vermont public school outside the district or a Vermont approved independent school located inside or outside the district as the sole public high school of the UUSD.

(2) Two or more contiguous schools districts that, when merged, would operate one or more approved schools offering kindergarten through grade 8 and would provide for the education of resident pupils in grades 9 through 12 by paying tuition pursuant to 16 V.S.A. § 824, are eligible for the incentives outlined in Sec. 4 of this act and for purposes of this act shall be considered a UUSD if:

(A) the districts, when merged, will neither operate a school offering grades 9 through 12 nor designate a school pursuant to 16 V.S.A. § 827 that offers those grades;

(B) for at least two fiscal years prior to merger, none of the merging districts operated a school offering grades 9 through 12;

(C) on the day on which the merger takes effect and the new merged district comes into existence, none of the merging districts is a member of a union school district that operates a school offering grades 9 through 12; and

(D) the merging districts and the new, merged district comply with all other provisions of this act, or otherwise in law, that apply to a UUSD formed under the school district merger incentive program created by this act, including the provision in subdivision (d)(2) of this section that the new merged district is a distinct supervisory district and shall not be assigned to be a member of a supervisory union.

(c) Existing union school districts. Pursuant to 16 V.S.A. § 701b(b), if an existing union school district is among the districts merging to form a UUSD, a successful vote to form the UUSD dissolves the existing union district.

(d) Supervisory unions and supervisory districts.

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

(2) For purposes of this act, a UUSD is a supervisory district consisting of a single unified union school district, as explicitly contemplated by 16 V.S.A. § 11(a)(24), and shall not be assigned to a supervisory union pursuant to 16 V.S.A. § 706h.

(3) If a UUSD includes all school districts within one or more existing supervisory unions, then a successful vote to form the UUSD dissolves the

school districts, the supervisory union or unions, and all related elected boards on the day the new UUSD becomes operative.

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

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

(B) 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 UUSD 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.

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

(f) Local participation. Because the UUSD 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 UUSD policy and budget development.

(g) Enrollment options. The plan for merger presented to the electorate for approval shall include whether and to what extent the voters of the participating districts wish to allow the elementary and secondary students residing within the UUSD to enroll in any school the UUSD operates, provided:

(1) the UUSD shall comply with the regional high school choice provisions of 16 V.S.A. § 1622;

(2) the UUSD shall provide, or provide access to, secondary technical education for students residing within its boundaries; and

(3) if the proposed enrollment plan would provide fewer options to the students in one or more of the districts interested in merger than they have prior to merger, then the plan shall require the UUSD to pay tuition to a school pursuant to the provisions of chapter 21 of Title 16 for any student who resides within the UUSD if that student resided in one of the participating districts prior to merger and as a result of that residency was enrolled in the school at

public expense at the time of merger, even if the UUSD's approved merger plan has determined that the school is not otherwise a school to which it will pay tuition.

(h) 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 eligible students residing within its boundaries.

(i) 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. UUSDs are encouraged to increase opportunities for students through distance learning, dual enrollment, internships, and other programs.

(j) Employment and labor relations. The UUSD, upon assuming operating responsibility on the first day of its existence, 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 UUSD, until such time as it reaches its own agreement with teachers and administrators under 16 V.S.A. § 2005, and with respect to other employees under 21 V.S.A. § 1725(a); and

(3) otherwise comply with all laws regarding labor relations applicable to school districts and supervisory unions, including chapter 57 of Title 16 and chapter 22 of Title 21.

(k) Waiver. School districts interested in merger may request the state board of education to grant them a waiver from the requirements of subsection (a) of this section, which shall be granted if the districts can demonstrate that for them the requirements of that subsection would not be cost-effective, would decrease educational opportunities, or would diminish student achievement, or any combination of these.

(l) Qualification. No individual entitlement or private right of action is created by Secs. 2 through 8 of this act.

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 UUSD 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 UUSD.

(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 UUSD's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the UUSD may contain a provision authorizing the UUSD, 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 UUSD 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 UUSD'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 UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$875.00;

(B) if the UUSD'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 UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$750.00;

(C) if the UUSD'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 UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$600.00;

(D) if the UUSD'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 UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$400.00; and

(E) if the UUSD'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 UUSD's homestead property tax rate for the year, the UUSD's education spending per equalized pupil shall be decreased by \$200.00.

(2) For purposes of determining the UUSD's homestead property tax rate under this subsection for the first fiscal year of merger, the UUSD'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 UUSD 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 UUSD's homestead property tax rate is calculated pursuant to this subsection, the equalized homestead property tax rate for each municipality within the UUSD shall not increase or decrease by more than five percent in a single year.

(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 UUSD to its lender on borrowing in anticipation of any state school construction aid that was owed to a merging member of the UUSD as of the effective date of this act and has not been paid to the UUSD 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 UUSD 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 UUSD 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 UUSD 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 UUSD 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 merged district shall be entitled to receive any of the benefits set forth in subsections (b)–(e) of 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. TRANSITION

The UUSD merger plan presented to the electorate for approval pursuant to this act shall provide for any transition of employment of staff by member districts to employment by the UUSD by:

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

(2) providing for the immediate and voluntary recognition by the UUSD of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the UUSD;

(3) ensuring that no nonprobationary employee of a member district shall be considered a probationary employee upon the transition to the UUSD; and

(4) containing an agreement with the recognized representatives of the employees of the member districts, which is effective on the date on which the UUSD comes into existence, regarding how the UUSD, prior to reaching its first collective bargaining agreement with its employees, will address issues of seniority, reduction in force, layoff, and recall.

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 UUSDs 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 Sec. 5(b) of this act or 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

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.

* * *Statutory Revision; Effective Dates * * *

Sec. 20. 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.

Sec. 21. 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.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Rep. Ancel of Calais, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Education.

Thereupon, **Rep. Peltz of Woodbury** asked and was granted leave of the House to withdraw the report of the committee on Education.

Pending the question, Shall the bill be read the third time: **Rep. Peltz of Woodbury** moved to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

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~~ 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

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.

* * *Statutory Revision; Effective Dates * * *

Sec. 20. 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.

Sec. 21. 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.

Recess

At one o'clock and five minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At one o'clock and twenty minutes in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Bill Amended
and Third Reading Ordered**

H. 782

Consideration resumed on House bill, entitled

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

Pending the question, Shall the bill be amended as offered by Rep. Peltz of Woodbury? **Rep. Peltz of Woodbury** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Peltz of Woodbury? was decided in the affirmative. Yeas, 85. Nays, 50.

Those who voted in the affirmative are:

Ancel of Calais *
Andrews of Rutland City
Atkins of Winooski
Bissonnette of Winooski

Bohi of Hartford
Botzow of Pownal
Bray of New Haven
Browning of Arlington

Clarkson of Woodstock
Condon of Colchester
Conquest of Newbury
Consejo of Sheldon

Copeland-Hanzas of Bradford	Lanpher of Vergennes	Obuchowski of Rockingham
Corcoran of Bennington	Larson of Burlington	Orr of Charlotte
Courcelle of Rutland City	Lenes of Shelburne	Pellett of Chester
Deen of Westminster	Leriche of Hardwick	Peltz of Woodbury
Donovan of Burlington *	Lippert of Hinesburg	Poirier of Barre City
Emmons of Springfield	Lorber of Burlington	Potter of Clarendon
Evans of Essex	Macaig of Williston	Pugh of South Burlington
Fisher of Lincoln	Maier of Middlebury	Ram of Burlington
Frank of Underhill	Malcolm of Pawlet	Shand of Weathersfield
French of Shrewsbury	Manwaring of Wilmington	Smith of Mendon
French of Randolph	Marek of Newfane	Spengler of Colchester
Geier of South Burlington	Martin of Springfield	Stevens of Waterbury
Gilbert of Fairfax *	Martin of Wolcott	Sweaney of Windsor
Grad of Moretown	Masland of Thetford	Taylor of Barre City
Head of South Burlington	McCullough of Williston	Till of Jericho *
Hooper of Montpelier	Milkey of Brattleboro	Toll of Danville
Howard of Rutland City	Miller of Shaftsbury	Townsend of Randolph
Jerman of Essex	Minter of Waterbury	Waite-Simpson of Essex *
Jewett of Ripton	Mitchell of Barnard	Webb of Shelburne
Johnson of South Hero	Mook of Bennington	Weston of Burlington
Keenan of St. Albans City	Moran of Wardsboro	Wilson of Manchester
Kitzmiller of Montpelier	Mrowicki of Putney	Wizowaty of Burlington
Klein of East Montpelier	Nease of Johnson	Young of St. Albans City
Krebs of South Hero	Nuovo of Middlebury	Zenie of Colchester *
	O'Brien of Richmond	

Those who voted in the negative are:

Adams of Hartland	Heath of Westford	Myers of Essex
Ainsworth of Royalton	Higley of Lowell	O'Donnell of Vernon
Baker of West Rutland	Howard of Cambridge	Olsen of Jamaica
Burke of Brattleboro	Howrigan of Fairfield	Pearce of Richford
Canfield of Fair Haven	Hubert of Milton	Peaslee of Guildhall
Clark of Vergennes	Kilmartin of Newport City	Perley of Enosburg
Clerkin of Hartford	Koch of Barre Town	Reis of St. Johnsbury
Crawford of Burke	Komline of Dorset *	Savage of Swanton
Davis of Washington	Larocque of Barnet	Scheuermann of Stowe *
Devereux of Mount Holly	Lawrence of Lyndon	Sharpe of Bristol
Dickinson of St. Albans Town	Lewis of Derby	Shaw of Pittsford
Donaghy of Poultney	Marcotte of Coventry	South of St. Johnsbury
Donahue of Northfield	McAllister of Highgate	Stevens of Shoreham
Fagan of Rutland City	McDonald of Berlin	Turner of Milton
Greshin of Warren	McFaun of Barre Town	Winters of Williamstown
Haas of Rochester	McNeil of Rutland Town	Wright of Burlington
	Morrissey of Bennington	Zuckerman of Burlington *

Those members absent with leave of the House and not voting are:

Acinapura of Brandon	Cheney of Norwich	Morley of Barton
Aswad of Burlington	Edwards of Brattleboro	Partridge of Windham
Audette of South Burlington	Helm of Castleton	Rodgers of Glover
Branagan of Georgia	Johnson of Canaan	Wheeler of Derby
Brennan of Colchester	Krawczyk of Bennington	

Rep. Ancel of Calais explained her vote as follows:

“Mr. Speaker:

This bill sets the table for school districts to make their own decisions whether consolidation will create better opportunities for their students and improve cost efficiencies. The incentives it offers are modest but meaningful. Furthermore, the bill has no effect on those districts that currently offer school choice. It is a needed step forward.”

Rep. Donovan of Burlington explained her vote as follows:

“Mr. Speaker:

I vote yes on H. 782 because it offers opportunities for school districts to continue to offer quality educational programs for Vermont school children at an affordable price. The school choice that exists in Vermont today will continue to exist the day after this bill is enacted into law.”

Rep. Gilbert of Fairfax explained his vote as follows:

“Mr. Speaker:

I support H. 782. The key point is that the bill, as written, has the intent of removing barriers to merger for those districts and their voters who have determined that it is in their best interest to merge. The bill recognizes that communities differ and gives local boards and voters the chance to determine what is best for them. The only requirement is that districts have a discussion with their neighbors to determine if it is something that they want to explore. Those districts that find it is in their best interests present the entire plan to their voters for approval. Those districts that do not find it in their best interests will continue to operate as they already do. It’s a shame we can’t let our voters make their own decisions.”

Rep. Komline of Dorset explained her vote as follows:

“Mr. Speaker:

This bill does absolutely nothing to address school funding reform which Vermonters have repeatedly asked for.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

I voted no because Vermonters have been clamoring for education and education funding reform. In their defense of this bill, proponents have argued it is innocuous and a do-nothing bill. I couldn’t agree more.”

Rep. Till of Jericho explained his vote as follows:

“Mr. Speaker:

I support this amendment. It requires only that school boards consider the possibility of merger. It allows the local boards to make a decision that they believe is best for their district. It provides temporary incentives to the towns whose taxes would go up as a result of the merger removing one large roadblock to merger in my S.U. for a long time.

Most importantly it does not mandate consolidation from the top down. No district is required to change anything they’re doing. Only to consider the implications of merger..”

Rep. Waite-Simpson of Essex explained her vote as follows:

“Mr. Speaker:

Your House Education committee has heard from many people on the governance issue. We have a number of bills on our wall mandating consolidation of school districts which would effectively eliminate school choice in this state. Your committee decided to respect local decision-making and offer tools for school districts to use should they so decide.”

Rep. Zenie of Colchester explained his vote as follows:

“Mr. Speaker:

280 school districts each with their own personality. One size does not fit all. Only the voters know what is good for their district. H. 782 respects their decisions.”

Rep. Zuckerman of Burlington explained his vote as follows:

“Mr. Speaker:

The school spending slope is going down already. Now we can claim it is because of us.

Local boards can already talk with neighbors and constituents. We presume they are not doing their job. One size does not fit all.”

Thereupon, third reading was ordered.

Message from the Senate No. 48

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

H. 213. An act to provide fairness to tenants in cases of contested housing security deposit withholding.

H. 555. An act relating to youth hunting.

H. 788. An act relating to approval of amendments to the charter of the town of Berlin.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 64. Joint resolution relating to the future of the international port of entry at Morses Line and the proposed federal acquisition of land belonging to the Rainville family farm.

In the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 122. An act relating to recounts in elections for statewide offices.

And has concurred therein.

Favorable Report; Third Reading Ordered**S. 247**

Rep. Pugh of South Burlington, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to bisphenol A

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Nease of Johnson** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question,

Shall the bill be read a third time? was decided in the affirmative. Yeas, 127.
Nays, 1.

Those who voted in the affirmative are:

Ainsworth of Royalton	Howrigan of Fairfield	Nease of Johnson
Andrews of Rutland City	Hubert of Milton	Nuovo of Middlebury
Atkins of Winooski	Jerman of Essex	O'Brien of Richmond
Baker of West Rutland	Jewett of Ripton	Obuchowski of Rockingham
Bissonnette of Winooski	Johnson of South Hero	O'Donnell of Vernon *
Bohi of Hartford	Keenan of St. Albans City	Olsen of Jamaica
Botzow of Pownal	Kilmartin of Newport City	Orr of Charlotte
Bray of New Haven	Kitzmiller of Montpelier	Pearce of Richford
Browning of Arlington	Klein of East Montpelier	Peaslee of Guildhall
Burke of Brattleboro	Komline of Dorset	Peltz of Woodbury
Canfield of Fair Haven	Krebs of South Hero	Perley of Enosburg
Clark of Vergennes	Lanpher of Vergennes	Poirier of Barre City
Clarkson of Woodstock	Larocque of Barnet	Potter of Clarendon
Condon of Colchester	Larson of Burlington	Pugh of South Burlington
Conquest of Newbury	Lawrence of Lyndon	Ram of Burlington
Consejo of Sheldon	Lenes of Shelburne	Reis of St. Johnsbury
Copeland-Hanzas of Bradford	Leriche of Hardwick	Savage of Swanton
Corcoran of Bennington	Lewis of Derby	Scheuermann of Stowe
Courcelle of Rutland City	Lippert of Hinesburg	Shand of Weathersfield
Crawford of Burke	Lorber of Burlington	Sharpe of Bristol
Davis of Washington	Macaig of Williston	Shaw of Pittsford
Deen of Westminster	Maier of Middlebury	Smith of Mendon
Donaghy of Poultney	Malcolm of Pawlet	South of St. Johnsbury
Donovan of Burlington	Manwaring of Wilmington	Spengler of Colchester
Emmons of Springfield	Marcotte of Coventry	Stevens of Waterbury
Evans of Essex	Marek of Newfane	Stevens of Shoreham
Fagan of Rutland City	Martin of Springfield	Sweaney of Windsor
Fisher of Lincoln	Martin of Wolcott	Taylor of Barre City
Frank of Underhill	Masland of Thetford	Till of Jericho
French of Shrewsbury	McAllister of Highgate	Toll of Danville
French of Randolph	McCullough of Williston	Townsend of Randolph
Geier of South Burlington	McDonald of Berlin	Turner of Milton
Gilbert of Fairfax	McFaun of Barre Town *	Waite-Simpson of Essex
Grad of Moretown	McNeil of Rutland Town	Webb of Shelburne
Greshin of Warren	Milkey of Brattleboro	Weston of Burlington
Haas of Rochester	Miller of Shaftsbury	Wilson of Manchester
Head of South Burlington	Minter of Waterbury	Winters of Williamstown
Heath of Westford	Mitchell of Barnard	Wizowaty of Burlington
Higley of Lowell	Mook of Bennington	Wright of Burlington
Hooper of Montpelier	Moran of Wardsboro	Young of St. Albans City
Howard of Cambridge	Morrissey of Bennington	Zenie of Colchester
Howard of Rutland City	Mrowicki of Putney	Zuckerman of Burlington
	Myers of Essex	

Those who voted in the negative are:

Donahue of Northfield *

Those members absent with leave of the House and not voting are:

Acinapura of Brandon	Clerkin of Hartford	Krawczyk of Bennington
Adams of Hartland	Devereux of Mount Holly	Morley of Barton
Ancel of Calais	Dickinson of St. Albans	Partridge of Windham
Aswad of Burlington	Town	Rodgers of Glover
Audette of South Burlington	Edwards of Brattleboro	Smith of Morristown
Branagan of Georgia	Helm of Castleton	Wheeler of Derby
Brennan of Colchester	Johnson of Canaan	
Cheney of Norwich	Koch of Barre Town	

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

I voted no. So many times we go just a few steps too far, turning a rational protection into an irrational result. This is one such time..”

Rep. O'Donnell of Vernon explained her vote as follows:

“Mr. Speaker:

I vote yes because we all have concerns about BPA. But, I still have a huge concern about our WIC program, and the availability of formula to our lowest income families.”

Rep. McFaun of Barre Town explained his vote as follows:

“Mr. Speaker:

After voting no in committee, I voted yes today because of the additional information I got from the floor debate convincing me it was the right thing to do at this time.”

Proposals of Amendment Agreed to; Read Third Time and Passed in Concurrence with Proposal of Amendment

S. 222

Senate bill, entitled

An act relating to recognition of Abenaki tribes;

Was taken up and pending third reading of the bill, **Rep. Ram of Burlington** moved to amend the House proposal of amendment as follows:

First: In Sec. 1, 1 V.S.A. § 851, in subdivision (5), by striking the words “in order to gain approval by the Indian Arts and Crafts Board (IACB) of the Bureau of Indian Affairs”

Second: In Sec. 1, 1 V.S.A. § 851, by striking subdivision (6) and renumbering the subsequent subdivisions to be numerically correct.

Third: In Sec. 4, 1 V.S.A. § 853, in subsection (c), by striking the words “established by the commission”

Fourth: In Sec. 4, 1 V.S.A. § 853(c), in subdivision (2), by striking the words “complete review” and by inserting the words “and the review panel shall complete a review”

Fifth: In Sec. 4, 1 V.S.A. § 853(c)(3), after the third sentence, by inserting the following: “If the applicant and the commission are unable to agree on a panel, the state historic preservation officer shall appoint the panel.”

Which was agreed to.

Pending third reading of the bill, **Rep. Webb of Shelburne** moved to amend the House proposal of amendment as follows:

First: In Sec. 3, 1 V.S.A. § 852, by striking subsection (b) and inserting in lieu thereof the following:

(b) The commission shall ~~comprise seven~~ be composed of nine members appointed by the governor for staggered two-year terms from a list of candidates compiled by the division for historic preservation. The governor shall appoint ~~a chair from among the members of the commission.~~ members who are residents of Vermont and reflect a diversity of affiliations and geographic locations in Vermont. A member may serve for no more than two consecutive terms, unless there are insufficient eligible candidates. The division shall compile a list of ~~candidates' recommendations~~ candidates from the following:

(1) Recommendations from ~~the Missisquoi Abenaki and other Abenaki and other Native American regional tribal councils and communities~~ based in Vermont.

(2) ~~Applicants~~ Individuals who apply ~~in response to solicitations, publications, and website notification by~~ to the division of historical preservation. Candidates shall indicate their residence and Native American affiliation.

Second: In Sec. 3, 1 V.S.A. § 852(c), by striking subdivision (2)-(8) and inserting in lieu thereof the following:

(2) Provide technical assistance and an explanation of the process to applicants for state recognition.

(3) Compile and maintain a list of professionals and scholars for appointment to a review panel.

(4) Appoint a three-member panel to review supporting documentation of an application for recognition to advise the commission of its accuracy and relevance.

(5) Review each application, supporting documentation, and findings of the review panel and make recommendations for or against state recognition to the legislative committees.

(6) Assist Native American Indian tribes recognized by the state to:

(A) Secure assistance for social services, education, employment opportunities, health care, and housing.

(B) Develop and market Vermont Native American fine and performing arts, craft work, and cultural events.

(7) Develop policies and programs to benefit Vermont's Native American Indian population within the scope of the commission's authority.

Third: In Sec. 4, 1 V.S.A. § 853, in subsection (a), by striking subsection (4) and inserting in lieu thereof the following:

(4) "Tribe" means an assembly of Native American Indian people who are related to each other by kinship and who trace their ancestry to a kinship group that has historically maintained an organizational structure that exerts influence and authority over its members.

Fourth: In Sec. 4, 1 V.S.A. § 853(b), in subdivision (2), by striking subdivisions (3), (4), and (6) and inserting in lieu thereof the following

(3) The applicant has a connection with Native American Indian tribes and bands that have historically inhabited Vermont.

(4) The applicant has historically maintained an organizational structure that exerts influence and authority over its members that is supported by documentation of the structure, membership criteria, the names and residential addresses of its members, and the methods by which the applicant conducts its affairs.

(6) The applicant is organized in part:

(A) To preserve, document, and promote its Native American Indian culture and history, and this purpose is reflected in its bylaws.

(B) To address the social, economic, political or cultural needs of the members with ongoing educational programs and activities.

Fifth: In Sec. 4, 1 V.S.A. § 853(c), by striking subdivision (7) and (8) and inserting in lieu thereof the following

(7) The commission shall provide a detailed written report of its findings and conclusions to the applicant and the legislative committees along with a recommendation that the general assembly recognize or deny recognition to the applicant as a Native American Indian tribe.

(8) All proceedings, applications, and supporting documentation shall be public except material exempt pursuant to subsection 3174) of this title. Any documents relating to genealogy submitted in support of the application shall be available only to the three-member review panel.

Sixth: By adding Secs. 4a and 4b to read as follows:

Sec. 4a. 1 V.S.A. § 317(40) is added to read:

(40) Records of genealogy provided in support of an application for tribal recognition pursuant to chapter 23 of this title.

Sec. 4b. TRANSITIONAL PROVISIONS

The terms of the present members of the commission on Native American affairs shall be deemed expired and the governor shall appoint all nine members of the commission. The present members of the commission may reapply for appointment to the commission.

Thereupon, Rep. Webb of Shelburne asked and was granted leave of the House to withdraw her amendment.

Pending third reading of the bill, **Rep. Kilmartin of Newport City** moved to amend the House proposal of amendment as follows:

First: In Sec. 4, 1 V.S.A. § 853, subsection (a), in subdivisions (3) by striking the words "or the commission"

Second: In Sec. 4, 1 V.S.A. § 853(c) in subdivisions (2) and (6), by striking the word "decision" and inserting in lieu thereof the word "recommendation"

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Consideration Resumed; Action on Bill Postponed**S. 297**

Consideration resumed on Senate bill, entitled

An act relating to miscellaneous changes to education law;

Was taken up and pending the question, Shall the House proposal of amendment be amended as recommended by Rep. McAllister of Highgate? on motion of **Rep. Mook of Bennington**, action on the bill was postponed until the next legislative day.

Rules Suspended; Bill Read Third Time and Passed in Concurrence with Proposal of Amendment; Rules Suspended and the Bill was Ordered Messaged to the Senate Forthwith**S. 207**

Senate bill, entitled

An act relating to handling of milk samples;

On motion of **Rep. Komline of Dorset**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence with proposal of amendment. The bill was read the third time and passed in concurrence with proposal of amendment and, on motion of **Rep. Komline of Dorset**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Komline of Dorset**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

S. 103

Senate bill, entitled

An act relating to the study and recommendation of ignition interlock device legislation;

S. 222

Senate bill, entitled

An act relating to recognition of Abenaki tribes;

S. 187

Senate bill, entitled

An act relating to municipal financial audits.

Message from Governor

A message was received from His Excellency, the Governor, by Mr. David M. Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-ninth day of April, 2010, he approved and signed a bill originating in the House of the following title:

H. 456 An act relating to fuel assistance**Adjournment**

At four o'clock and forty-five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Monday, May 3, 2010, at ten o'clock in the forenoon.