

No. 129. An act relating to making technical corrections and other miscellaneous changes to education law.

(H.771)

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

* * * Technical Corrections * * *

Sec. 1. 16 V.S.A. § 212 is amended to read:

§ 212. COMMISSIONER'S DUTIES GENERALLY

The commissioner shall execute those policies adopted by the state board in the legal exercise of its powers and shall:

* * *

(12) Distribute at his or her discretion upon request to approved independent schools appropriate forms and materials relating to the ~~Vermont state basic competency program~~ school quality standards for elementary and secondary pupils.

* * *

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

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

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

* * *

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

* * *

Sec. 3. 16 V.S.A. § 429 is amended to read:

§ 429. LOANS

~~The Notwithstanding subsection 4029(b) of this title, a school board may draw orders for loans without interest to the town town's general fund and the board of selectmen town selectboard may draw orders for loans without interest to the town school district fund, the loans to be secured by notes signed by the board of selectmen or the school directors as the case may be and stipulating the terms agreed upon between the board of school directors and the board of selectmen. The notes shall be payable on demand or mature within three months from date of issue a note signed by both the selectboard and the school board that stipulates mutually agreeable terms and conditions. A note shall be payable not more than 90 days after its issuance and shall be payable on demand anytime within the 90-day term. The school board shall report all loans to the department pursuant to subsection 4029(f) of this title. For purposes of this section, "town" and "selectboard" shall have the same meaning as they have in 1 V.S.A. § 139.~~

Sec. 4. 16 V.S.A. § 821 is amended to read:

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

(a) Elementary school. Each school district shall ~~provide, furnish, and~~ maintain one or more approved schools within the district in which elementary

education for its resident pupils in kindergarten through grade six is provided unless:

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

(2) ~~The~~ the school district is organized to provide only high school education for its pupils; or

(3) ~~Otherwise provided for by the general assembly~~ provides otherwise.

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

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

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

(c) Notwithstanding subsection (a) of this section, without previous authorization by the electorate, a school board ~~without previous authorization by the electorate~~ in a district that operates an elementary school may pay

tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there due to geographic considerations. Within 30 days of the board's decision, a parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, who shall have authority to direct the school board to pay all, some, or none of the pupil's tuition and whose decision shall be final.

(d) Notwithstanding ~~subsection (a)~~ subdivision (a)(1) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary pupil at an approved independent elementary school or an independent school meeting school quality standards pursuant to sections 823 and 828 of this chapter upon notice given by the pupil's parent or legal guardian before April 15 for the next academic year.

Sec. 5. REPEAL

16 V.S.A. §§ 1381–1385 (appointment of medical inspectors; appropriation to state board of education) are repealed.

* * * Joint Contract Schools; Technical Corrections * * *

Sec. 6. 16 V.S.A. § 3447 is amended to read:

§ 3447. SCHOOL BUILDING CONSTRUCTION-STATE BONDS; CITY
AS SCHOOL DISTRICT

The state treasurer may issue bonds under 32 V.S.A. chapter 13 ~~of Title 32~~ in such amount as may from time to time be appropriated to assist incorporated school districts, joint contract ~~school districts~~ schools, town school districts, union school districts, regional technical center school districts, and independent schools meeting school quality standards which serve as the public high school for one or more towns or cities, or combination thereof, and which both receive their principal support from public funds and are conducted within the state under the authority and supervision of a board of trustees, not less than two-thirds of whose membership is appointed by the selectboard of a town or by the city council of a city or in part by such selectboard and the remaining part by such council under the conditions and for the purpose set forth in sections 3447-3456 of this title. A city shall be deemed to be an incorporated school district within the meaning of sections 3447-3456 of this title.

Sec. 7. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

* * *

(6) "School district" means a town, city, incorporated, interstate, or union school district or a joint contract school district established under subchapter 1 of chapter 11 of this title.

* * *

Sec. 8. 16 V.S.A. § 572(d) is amended to read:

(d) Unless the school districts ~~which~~ that are parties to the contract have agreed upon a different method of allocating board members that is consistent with law, the allocation of the board members shall be as ~~follows~~ provided in this subsection. The school district ~~having~~ with the largest number of pupils attending the joint, contract, or consolidated school shall have three members on the joint board. Each other school district shall have at least one member on the joint board, and its total membership shall be determined by dividing the number of pupils from the school district with the largest enrollment by three, rounding off the quotient to the nearest whole number, which shall be called the "factor" and by then dividing the pupil enrollment of each of the other school districts by the "factor," rounding off this quotient to the nearest whole number, this number being the number of school directors on the joint board from each of the other school districts. Pupil enrollment for the purpose of determining the number of members on the joint board to which each school district is entitled shall be taken from the school registers on January 1 of the

calendar year in which the school year starts. ~~Such~~ The joint board shall annually select from among the its members thereof a chairman a chair and a clerk and shall also select a treasurer from among the treasurers of the contracting districts.

* * * Prekindergarten Rules * * *

Sec. 9. 16 V.S.A. § 829(1) is amended to read:

(1) To ensure that, before a school district begins or expands a prekindergarten education program that intends to enroll students who are included in its average daily membership, the district engage the community in a collaborative process that includes an assessment of the need for the program in the community and an inventory of the existing service providers; provided, however, if a district needs to expand a prekindergarten education program in order to satisfy federal law relating to the ratio of special needs children to children without special needs and if the law cannot be satisfied by any one or more qualified service providers with which the district may already contract, then the district may expand an existing school-based program without engaging in a community needs assessment.

Sec. 10. PREKINDERGARTEN EDUCATION; RULES

The state board of education shall amend its rules before January 1, 2013 to reflect the requirements of Sec. 9 of this act.

* * * Harassment, Hazing, and Bullying * * *

Sec. 11. REPEAL

16 V.S.A. 565 (harassment and hazing prevention policies) is repealed.

Sec. 12. 16 V.S.A. chapter 9, subchapter 5 is added to read:

Subchapter 5. Harassment, Hazing, and Bullying

§ 570. HARASSMENT, HAZING, AND BULLYING PREVENTION

POLICIES

(a) State policy. It is the policy of the state of Vermont that all Vermont educational institutions provide safe, orderly, civil, and positive learning environments. Harassment, hazing, and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.

(b) Prevention policies. Each school board shall develop, adopt, ensure the enforcement of and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the commissioner. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the commissioner.

(c) Notice. Annually, prior to the commencement of curricular and cocurricular activities, the school board shall provide notice of the policy and

procedures developed under this subchapter to students, custodial parents or guardians of students, and staff members, including reference to the consequences of misbehavior contained in the plan required by section 1161a of this title. Notice to students shall be in age-appropriate language and should include examples of harassment, hazing, and bullying. At a minimum, this notice shall appear in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for the school. The school board shall use its discretion in developing and initiating age-appropriate programs to inform students about the substance of the policy and procedures in order to help prevent harassment, hazing, and bullying. School boards are encouraged to foster opportunities for conversations between and among students regarding tolerance and respect.

(d) Duties of the commissioner. The commissioner shall:

(1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and

(2) establish an advisory council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The council shall report annually in January to the state board and the house and senate committees on education. The council shall include:

(A) the executive director of the Vermont Principals' Association or designee;

(B) the executive director of the Vermont School Boards Association or designee;

(C) the executive director of the Vermont Superintendents Association or designee;

(D) the president of the Vermont-National Education Association or designee;

(E) the executive director of the Vermont Human Rights Commission or designee;

(F) the executive director of the Vermont Independent Schools Association or designee; and

(G) other members selected by the commissioner.

(e) Definitions. In this subchapter:

(1) "Educational institution" and "school" mean a public school or an approved or recognized independent school as defined in section 11 of this title.

(2) "Organization," "pledging," and "student" have the same meanings as in subdivisions 140a(2), (3), and (4) of this title.

(3) "Harassment," "hazing," and "bullying" have the same meanings as in subdivisions 11(a)(26), (30), and (32) of this title.

(4) “School board” means the board of directors or other governing body of an educational institution when referring to an independent school.

§ 570a. HARASSMENT

(a) Policies and plan. The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that harassment, as defined in subdivision 11(a)(26) of this title, is prohibited and may constitute a violation of the public accommodations act as more fully described in section 14 of this title.

(2) Consequences and appropriate remedial action for staff or students who commit harassment. At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints.

(3) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(4) A description of the circumstances under which harassment may be reported to a law enforcement agency.

(5) A procedure for investigating reports of violations and complaints. The procedure shall provide that, unless special circumstances are present and documented by the school officials, an investigation is initiated no later than one school day from the filing of a complaint and the investigation and

determination by school officials are concluded no later than five school days from the filing of the complaint with a person designated to receive complaints under subdivision (7) of this section. All internal reviews of the school's initial determination, including the issuance of a final decision, shall, unless special circumstances are present and documented by the school officials, be completed within 30 days after the review is requested.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to harassment.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

(8) A procedure for publicizing the availability of the Vermont human rights commission and the federal Department of Education's Office of Civil Rights and other appropriate state and federal agencies to receive complaints of harassment.

(9) A statement that acts of retaliation for the reporting of harassment or for cooperating in an investigation of harassment are unlawful pursuant to 9 V.S.A. § 4503.

(b) Independent review.

(1) A student who desires independent review under this subsection because the student is either dissatisfied with the final determination of the

school officials as to whether harassment occurred or believes that, although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem shall make such request in writing to the headmaster or superintendent of schools. Upon such request, the headmaster or superintendent shall initiate an independent review by a neutral person selected from a list developed jointly by the commissioner of education and the human rights commission and maintained by the commissioner. Individuals shall be placed on the list on the basis of their objectivity, knowledge of harassment issues, and relevant experience.

(2) The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others.

(3) Upon the conclusion of the review, the reviewer shall advise the student and the school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution.

(4) The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records.

(5) The costs of the independent review shall be borne by the public school district or independent school.

(6) Nothing in this subsection shall prohibit the school board from requesting an independent review at any stage of the process.

(7) Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This subdivision shall not require exclusion of any evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.

(8) The commissioner may adopt rules implementing this subsection.

§ 570b. HAZING

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that hazing, as defined in subdivision 11(a)(30) of this title, is prohibited and may be subject to civil penalties pursuant to subchapter 9 of chapter 1 of this title.

(2) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(3) A procedure for investigating reports of violations and complaints.

(4) A description of the circumstances under which hazing may be reported to a law enforcement agency.

(5) Appropriate penalties or sanctions or both for organizations that or individuals who engage in hazing and revocation or suspension of an organization's permission to operate or exist within the institution's purview if that organization knowingly permits, authorizes, or condones hazing.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to hazing.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

§ 570c. BULLYING

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that bullying, as defined in subdivision 11(a)(32) of this title, is prohibited.

(2) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(3) A procedure for investigating reports of violations and complaints.

(4) A description of the circumstances under which bullying may be reported to a law enforcement agency.

(5) Consequences and appropriate remedial action for students who commit bullying.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to bullying.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure both for publicizing the availability of those people and clarifying that their designation does not preclude a student from bringing a complaint to any adult in the building.

Sec. 13. IMPLEMENTATION

School boards shall adopt and implement bullying prevention policies as required by Sec. 12 of this act no later than January 1, 2013.

* * * Special Education Advisory Council * * *

Sec. 14. 16 V.S.A. § 2945(a) is amended to read:

(a) There is created an advisory council on special education that shall consist of ~~17~~ 19 members. All members of the council shall serve for a term of three years or until their successors are appointed. Terms shall begin on April 1 of the year of appointment. A majority of the members shall be either individuals with disabilities or parents of children with disabilities.

(1) ~~Fifteen~~ Seventeen of the members shall be appointed by the governor with the advice of the commissioner of education. Among the gubernatorial appointees shall be:

* * *

(J) a representative from the state child welfare department responsible for foster care; ~~and~~

(K) special education administrators; and

(L) two at-large members.

(2) In addition, two members of the general assembly shall be appointed, one from the house of representatives and one from the senate. The speaker shall appoint the house member and the committee on committees shall appoint the senate member.

Sec. 15. IMPLEMENTATION

The governor shall appoint the two at-large members required by Sec. 14, 16 V.S.A. § 2945(a)(1)(L), of this act on or before July 1, 2012, provided that the initial term of one member shall end on March 31, 2014 and the initial term of the other member shall end on March 31, 2015.

* * * Prekindergarten-16 Council; Afterschool Programs * * *

Sec. 16. 16 V.S.A. § 2905(b) is amended to read:

(b) The council shall be composed of:

* * *

(15) a member of the senate, who shall be selected by the committee on committees and shall serve until the beginning of the biennium immediately after the one in which the member is appointed; ~~and~~

(16) a member of the faculty of the Vermont State Colleges, the University of Vermont, or a Vermont independent college selected by United Professions AFT Vermont, Inc.; and

(17) a representative of after-school, summer, and expanded learning programs selected by the Vermont Center for Afterschool Excellence.

* * * Regional Technical Center School Districts;

Unorganized Towns, Grants, and Gores * * *

Sec. 17. 16 V.S.A. § 1572(b)(1) is amended to read:

(1) The makeup of the governing board. At least 60 percent of the board members shall be elected by direct vote of the voters, or chosen from member school district boards by the member school district boards, or a combination of the two. If the board is to have additional members, who may constitute up to 40 percent of the board, the additional members shall be appointed by the elected and chosen members from member school district boards for the purpose of acquiring expertise in areas they consider desirable. The appointed members may be selected from nominations submitted by the regional workforce investment board or other workforce organizations, or may be chosen without nomination by an organization. Notwithstanding any provision of law to the contrary, a resident of an unorganized town, grant, or gore that sits within the regional technical center school district who is otherwise

eligible to vote under 17 V.S.A. § 2121 may vote for the board members and may be elected to or appointed as a member of the governing board;

* * * Audits * * *

Sec. 18. 16 V.S.A. § 261a(a) is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

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

* * *

(10) submit to the ~~town auditors~~ board 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~~ a breakdown of that figure showing the amount paid by each school district within the supervisory union; and

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

* * *

Sec. 19. 16 V.S.A. § 323 is amended to read:

§ 323. AUDIT BY PUBLIC ACCOUNTANT

Annually, the supervisory union board shall employ a one or more public accountant accountants to audit the financial ~~statement~~ statements of the supervisory union and its member districts. The ~~audit~~ audits shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report of internal controls over financial reporting ~~that shall~~ to be provided to recipients of the financial statements. Any annual report of the supervisory union to member districts shall include notice that ~~an audit has~~ the audits have been performed and the time and place where the full report of the public accountant will be available for inspection and for copying at cost.

Sec. 20. 16 V.S.A. § 425 is amended to read:

§ 425. OTHER TOWN SCHOOL DISTRICT OFFICERS

Unless otherwise voted, the town clerk ~~and town auditors~~ shall by virtue of ~~their offices~~ the office perform the same duties for the town school district in addition to other duties assigned by this title.

Sec. 21. 16 V.S.A. § 491 is amended to read:

§ 491. ELECTION; NOTICE TO CLERK

At each annual meeting, an incorporated school district shall elect from among the legal voters of such district a moderator, collector, and treasurer;

~~one or three auditors~~ and may elect a clerk. All school officers shall enter upon their duties on July 1, following their election or appointment, ~~and. If a clerk is elected or appointed, then~~ the clerk shall, ~~within ten days after his election or appointment, give notice thereof to~~ notify the town clerk within ten days of the election or appointment.

Sec. 22. 16 V.S.A. § 492(a) is amended to read:

(a) The powers, duties, and liabilities of the collector, treasurer, ~~auditors,~~ prudential committee, and clerk shall be like those of a town collector, treasurer, ~~auditors, and~~ board of school directors, and the school board clerk of ~~same,~~ respectively.

Sec. 23. 16 V.S.A. § 563(10) is amended to read:

(10) Shall prepare and distribute to the electorate, not less than ten days prior to the district's annual meeting, a report of the conditions and needs of the district school system, including the superintendent's, supervisory union treasurer's, and school district treasurer's annual report for the previous school year; and the balance of any reserve funds established pursuant to 24 V.S.A. § 2804, ~~a summary of the town auditor's report as to fiscal years which are audited by town auditors as required by 24 V.S.A. § 1681, a summary of the public accountant's report as to fiscal years which are audited by a public accountant, and a notice of the time and place where the full report of the town auditor or the public accountant will be available for inspection and copying at~~

~~cost. Each town auditor's and public accountant's report shall comply with 24 V.S.A. § 1683(a).~~ At a school district's annual meeting, the electorate may vote to provide notice of availability of the report required by this subdivision to the electorate in lieu of distributing the report. 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 or special meeting.

Sec. 24. REPEAL

16 V.S.A. § 563(17) (responsibility of school boards for audits of school district finances) is repealed.

Sec. 25. 16 V.S.A. § 706m is amended to read:

§ 706m. TERMS OF OFFICE; ~~ELIMINATION OF OFFICE OF AUDITOR~~

(a) The terms of office of directors ~~and auditors~~ shall be three years after the first term and of all other officers shall be one year. ~~At the first annual meeting, one auditor shall be elected for a term of one year, one auditor for a term of two years, and one for a term of three years, or until their successors are chosen and qualified.~~

(b) ~~At any annual or special meeting warned for the purpose, the electorate may vote to eliminate the office of auditor and to employ instead a public accountant annually to audit the financial statements of the union school district.~~

Sec. 26. 16 V.S.A. § 706q(a) is amended to read:

(a) The powers, duties, and liabilities of the treasurer, ~~auditor~~, board of directors, and clerk shall be like those of a treasurer, ~~auditor~~, board of school directors, and clerk of a town school district.

Sec. 27. 16 V.S.A. § 706q(c) is amended to read:

(c) The board of directors shall prepare an annual report concerning the affairs of the union district and have it printed and distributed to the legal voters of the union at least ten days prior to the annual union district meeting. The report shall be filed with the clerk of the union district, and the town clerk of each member district. It shall include:

- (1) A statement of the board concerning the affairs of the union district;
- (2) The budget proposed for the next year;
- (3) A statement of the superintendent of schools for the union district concerning the affairs of the union;
- (4) A treasurer's report;
- (5) ~~A summary of an auditor's report prepared pursuant to subchapter 5 of chapter 51 of Title 24. The summary shall include a list of the fiscal years which are audited by the auditors and a notice of the time when and the place where the full report of the auditor will be available for inspection and copying at cost. The union district clerk shall distribute copies of the annual report as provided by 24 V.S.A. § 1173. [Repealed.]~~

Sec. 28. 17 V.S.A. § 2651b(a) is amended to read:

(a) A town may vote by ballot at an annual meeting to eliminate the office of town auditor. If a town votes to eliminate the office of town auditor, the selectboard shall contract with a public accountant, licensed in this state, to perform an annual financial audit of all funds of the town except the funds audited pursuant to 16 V.S.A. § 323. Unless otherwise provided by law, the selectboard shall provide for all other auditor duties to be performed. A vote to eliminate the office of town auditor shall remain in effect until rescinded by majority vote of the legal voters present and voting, by ballot, at an annual meeting duly warned for that purpose.

Sec. 29. 24 V.S.A. § 1681 is amended to read:

§ 1681. AUDITORS; DUTIES; MEETING

Town auditors shall meet at least ~~twenty-five~~ 25 days before each annual town meeting; to examine and adjust the accounts of all town ~~and town school district~~ officers and all other persons authorized by law to draw orders on the town treasurer. Such auditing shall include the account ~~which~~ that the treasurer is required to keep with the collector, the tax accounts of the collector, trust accounts where the town or any town officer, as such officer, is trustee or where the town is sole beneficiary, accounts relating to the town ~~and town school district~~ indebtedness, and accounts of any special funds in the care of any town ~~or town school district~~ official. Notice of such meeting shall be

given by posting or publication ten days in advance of such meeting.

~~However, if the town has not elected to eliminate the office of auditor, and town auditors and the school board concur, the town auditors need not conduct an audit of school district accounts as to school district fiscal years which are audited by a public accountant.~~

Sec. 30. 24 V.S.A. § 1683 is amended to read:

§ 1683. CONTENTS OF REPORT

(a) The report shall show a detailed statement of the financial condition of such town ~~and school district~~ for ~~their~~ its fiscal year, a classified summary of receipts and expenditures, a list of all outstanding orders and payables more than 30 days past due, and show deficit, if any, pursuant to section 1523 of this title and such other information as the municipality shall direct. Individuals who are exempt from penalty, fees and interest by virtue of 32 V.S.A. § 4609 shall not be listed or identified in any such report, provided that they notify or cause to be notified in writing the municipal or district treasurer that they should not be so listed or identified.

(b) The fiscal year of all school districts, charter provisions notwithstanding, shall end on June 30.

(c) The fiscal year of other municipalities shall end on December 31, unless the municipality votes at an annual or special meeting duly warned for that

purpose to have a different fiscal year, in which case the fiscal year so voted shall remain in effect until amended.

(d) ~~The annual report of the town auditors or the selectboard, if the town has voted to eliminate the office of auditor, shall include the report and budget of the supervisory union as required by 16 V.S.A. § 261a(10). [Repealed.]~~

Sec. 31. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive money belonging to the town.

(b) If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors under subsection (a) of this section upon request of the selectboard.

(c) Any town officer who wilfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all necessary information in relation thereto, shall be ineligible to reelection for the year ensuing and be subject to the penalties otherwise prescribed by law.

(d) As used in this section, the term “town officer” shall not include an officer subject to the provisions of 16 V.S.A. § 323.

* * * Definitions * * *

Sec. 32. 16 V.S.A. § 11(a)(7), (10), and (18) are amended to read:

(7) “Public school” means an elementary school or secondary school ~~for~~ which the governing board is publicly elected operated by a school district. A public school may maintain evening or summer schools for its pupils and it shall be considered a public school.

(10) “School district” means town school districts, union school districts, interstate school districts, city school districts, unified union districts, and incorporated school districts, each of which is governed by a publicly elected board.

(18) ~~“Approved public school” means a public school which is approved under section 165 of this title. [Repealed.]~~

* * * Public High School Choice * * *

Sec. 33. [Deleted.]

Sec. 34. 16 V.S.A. § 822a is added to read:

§ 822a. PUBLIC HIGH SCHOOL CHOICE

(a) Definitions. In this section:

(1) “High school” means a public school or that portion of a public school that offers grades 9 through 12 or some subset of those grades.

(2) “Student” means a student’s parent or guardian if the student is a minor or under guardianship and means a student himself or herself if the student is not a minor.

(b) Limits on transferring students. A sending high school board may limit the number of resident students who transfer to another high school under this section in each year; provided that in no case shall it limit the potential number of new transferring students to fewer than five percent of the resident students enrolled in the sending high school as of October 1 of the academic year in which the calculation is made or 10 students, whichever is fewer; and further provided that in no case shall the total number of transferring students in any year exceed 10 percent of all resident high school students or 40 students, whichever is fewer.

(c) Capacity. On or before February 1 each year, the board of a high school district shall define and announce its capacity to accept students under this section. The commissioner shall develop, review, and update guidelines to assist high school district boards to define capacity limits. Guidelines may include limits based on the capacity of the program, class, grade, school building, measurable adverse financial impact, or other factors, but shall not be based on the need to provide special education services.

(d) Lottery.

(1) Subject to the provisions of subsection (f) of this section, if more than the allowable number of students wish to transfer to a school under this section, then the board of the receiving high school district shall devise a nondiscriminatory lottery system for determining which students may transfer.

(2) Subject to the provisions of subsection (f) of this section, if more than the allowable number of students wish to transfer from a school under this section, then the board of the sending high school district shall devise a nondiscriminatory lottery system for determining which students may transfer; provided, however:

(A) a board shall give preference to the transfer request of a student whose request to transfer from the school was denied in a prior year; and

(B) a board that has established limits under subsection (b) of this section may choose to waive those limits in any year.

(e) Application and notification.

(1) A high school district shall accept applications for enrollment until March 1 of the school year preceding the school year for which the student is applying.

(2) A high school district shall notify each student of acceptance or rejection of the application by April 1 of the school year preceding the school year for which the student is applying.

(3) An accepted student shall notify both the sending and the receiving high schools of his or her decision to enroll or not to enroll in the receiving high school by April 15 of the school year preceding the school year for which the student has applied.

(4) After sending notification of enrollment, a student may enroll in a school other than the receiving high school only if the student, the receiving high school, and the high school in which the student wishes to enroll agree. If the student becomes a resident of a different school district, the student may enroll in the high school maintained by the new district of residence.

(5) If a student who is enrolled in a high school other than in the school district of residence notifies the school district of residence by July 15 of the intent to return to that school for the following school year, the student shall be permitted to return to the high school in the school district of residence without requiring agreement of the receiving district or the sending district.

(f) Continued enrollment. An enrolled nonresident student shall be permitted to remain enrolled in the receiving high school without renewed applications in subsequent years unless:

(1) the student graduates;

(2) the student is no longer a Vermont resident; or

(3) the student is expelled from school in accordance with adopted school policy.

(g) Tuition and other costs.

(1) Unless the sending and receiving schools agree to a different arrangement, no tuition or other cost shall be charged by the receiving district or paid by the sending district for a student transferring to a different high school under this section; provided, however, a sending high school district shall pay special education and technical education costs for resident students pursuant to the provisions of this title.

(2) A student transferring to a different high school under this section shall pay no tuition, fee, or other cost that is not also paid by students residing in the receiving district.

(3) A district of residence shall include within its average daily membership any student who transfers to another high school under this section; a receiving school district shall not include any student who transfers to it under this section.

(h) Special education. If a student who is eligible for and receiving special education services chooses to enroll in a high school other than in the high school district of residence, then the receiving high school shall carry out the individualized education plan, including placement, developed by the sending high school district. If the receiving high school believes that a student not on an individualized education plan may be eligible for special education services or that an existing individualized education plan should be altered, it shall

notify the sending high school district. When a sending high school district considers eligibility, development of an individualized education plan, or changes to a plan, it shall give notice of meetings to the receiving high school district and provide an opportunity for representatives of that district to attend the meetings and participate in making decisions.

(i) Suspension and expulsion. A sending high school district is not required to provide services to a resident student during a period of suspension or expulsion imposed by another high school district.

(j) Transportation. Jointly, the superintendent of each supervisory union shall establish and update a statewide clearinghouse providing information to students about transportation options among the high school districts.

(k) Nonapplicability of other laws. The provisions of subsections 824(b) and (c) (amount of tuition), 825(b) and (c) (maximum tuition rate), and 826(a) (notice of tuition change) and section 836 (tuition overcharge and undercharge) of this chapter shall not apply to enrollment in a high school pursuant to this section.

(l) Waiver. If a high school board determines that participation under this section would adversely affect students in its high school, then it may petition the commissioner for an exemption. The commissioner's decision shall be final.

(m) Report. Notwithstanding 2 V.S.A. § 20(d), the commissioner shall report annually in January to the senate and house committees on education on the implementation of public high school choice as provided in this section, including a quantitative and qualitative evaluation of the program's impact on the quality of educational services available to students and the expansion of educational opportunities.

Sec. 35. 16 V.S.A. § 4001(1) is amended to read:

(1) "Average daily membership" of a school district, or if needed in order to calculate the appropriate homestead tax rate, of the municipality as defined in 32 V.S.A. § 5401(9), in any year means:

(A) The full-time equivalent enrollment of pupils, as defined by the state board by rule, who are legal residents of the district or municipality attending a school owned and operated by the district, attending a public school outside the district under ~~an interdistrict agreement~~ section 822a of this title, or for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period. The census period consists of the 11th day through the 30th day of the school year in which school is actually in session.

* * *

Sec. 36. REPEAL

16 V.S.A. §§ 1621 and 1622 (public high school choice regions) are repealed.

Sec. 37. REPORT

On or before January 15, 2013, the department of education shall evaluate the funding system set forth in Sec. 34 of this act at 16 V.S.A. § 822a(g) and present to the senate and house committees on education its recommendations for changes, if any.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATE; IMPLEMENTATION

(a) Secs. 18–31 (audits) of this act shall take effect on July 1, 2013.

(b) Secs. 34, 35, and 37 of this act (statewide high school choice) shall take effect on July 1, 2012; provided, however, that Sec. 34 shall apply to enrollment in the 2013–2014 academic year and after.

(c) Sec. 36 (repeal of regional high school choice) of this act shall take effect on July 1, 2013; provided, however, that 16 V.S.A. § 1622 shall apply to enrollment in the 2012–2013 academic year and shall not apply to the process for determining enrollment in the 2013–2014 academic year.

(d) This section and all other sections of this act shall take effect on passage.

Approved: May 11, 2012