

Education Legislative Report

July 11, 2018 – Issue #10

July 11, 2018 – Education Legislative Wrap-Up

Annually, our Associations provide a Legislative Wrap-Up Issue to inform you about the bills that passed into law.

Introduction

The regular 2018 legislative session concluded on May 13. Following adjournment, the Governor vetoed the budget and education funding bills. Since legislative leaders stated that they would not schedule a veto session, Governor Scott called a special session starting May 23.

Lawmakers and Governor Scott remained at odds over the budget and education funding in the special session, which began on May 23 and lasted into the third week of June. The main area of disagreement was over the use of unanticipated General Fund surplus funds to lower property tax rates. Governor Scott proposed to use close to \$50 million in one-time surplus funds from the General Fund to balance the Education Fund and avoid raising residential or non-residential property taxes. The General Assembly's position was that use of one-time funds for ongoing expenses was not good fiscal policy; in its view, the funds should be allocated towards the state's pension obligations. The General Assembly's position was consistent with the view conveyed by our Associations.

In the end, the Legislature's third attempt at a budget, H.16, became law without the Governor's signature on June 30. It is now designated as Act 11. Act 11 uses \$20.4 million of General Fund surplus revenue to keep the residential tax rate for fiscal year 2019 flat and increases the non-residential tax rate by 4.5 cents.

Governor Scott stated, "I'm left with no choice but to allow this bill to become law without my signature. Make no mistake, however, that I will be fighting to address these tax rates, and others, in the future – especially as our economy and our surplus continue to grow."

Setting the property dollar equivalent yield and income dollar equivalent yield at the above levels will keep the average statewide residential tax rate flat for fiscal year 2019. The use of one time money to buy down residential rates in 2019 means that residential and non-residential rates will need to

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increase by 2 cents in fiscal year 2020 before any increase in education spending at the local level, unless other one-time funds are used.

Act 11 also includes statewide bargaining for teachers' health insurance for contracts starting July 1, 2020, makes changes to the VEHI board composition, and establishes a staff-to-student ratios task force charged with presenting its findings concerning optimum staff-to-student ratios by December 15, 2018. Details regarding each of these provisions can be found below.

Education Bills Passed in 2018

The following education-related bills passed in 2018:

[Act 11](#) - Budget Bill (includes tax rates, yields, statewide bargaining for health insurance, ratios task force and other education related provisions)

[Act 190](#) - Capital Bill (includes school safety grants)

[Act 173](#) - Services For Students Who Require Additional Support

[Act 204](#) - Mitigating Childhood Trauma and Toxic Stress

[Act 166](#) - Changes to the Open Meeting Law and Public Records Act

[Act 5](#) – Preventing Sexual Exploitation of Students

[Act 189](#) - Workforce Development Bill

As leaders of your school systems, you serve as a voice for public education. As your state associations, we work to strongly represent education officials' concerns. Yet, there is no substitute for contact by constituents with their legislators. We encourage you to read our *Reports*, keep abreast of issues, and stay in touch with your house members and senators. Here is a link to Legislators' contact information, organized by supervisory union/district.

http://docs.wixstatic.com/ugd/b44bfd_c9e309b3f77449bda14c5f3cf152c469.pdf

If you have questions regarding the content, contact your Association's Executive Director or Sue Ceglowski, Legislative Analyst for the Education Legislative Collaborative and author of the *Report* at sceglowski@vtsba.org.

Act 11: Education Fund Changes, Tax Rates, Statewide Bargaining & Miscellaneous Education Provisions

Education Fund Uses & Sources

As was the case in the previous education funding bill vetoed by the Governor ([H.13](#)), [Act 11](#) eliminates the General Fund transfer to the Education Fund and reallocates revenues generated for the Education Fund and the General Fund. The changes to the sources of revenues to the Education fund are: (1) adding 25% of revenues from meals

and rooms taxes and (2) adding all of the revenues from the sales and use tax (previously 36%). Other revenue sources for the Education Fund are the statewide education tax on nonresidential and homestead property, revenues from State lotteries, one-third of the revenues raised from the purchase and use tax and Medicaid reimbursement funds.

The Act also removes certain programs that are currently funded through the Education Fund. They include: the Community High School of Vermont and adult education and literacy programs. These programs will now be funded through the General Fund in the amount of \$3,605,000 for fiscal year 2019.

On or before January 1, 2024, the Joint Fiscal Office is required to report to the House Committees on Appropriations and on Ways and Means, and the Senate Committees on Appropriations and on Finance on the impact of the reallocation of revenues generated for the General Fund and the Education Fund.

Yields & Tax Rates; Municipal Tax Bills

Act 11 does not change the current education funding formula. Rather, it sets the following rates for fiscal year 2019: (1) the property dollar equivalent yield is \$10,220.00, (2) the income dollar equivalent yield is \$12,380.00, and (3) the nonresidential tax rate is \$1.58 per \$100.00 of equalized education property value. Additionally, it sets a default property dollar equivalent yield and income dollar equivalent yield for future years (set at the same as the prior fiscal year unless set otherwise by the General Assembly).

Act 11 does make changes to who qualifies for income sensitivity for homestead property taxes. Filers with a household income of \$90,000 or more who are seeking a property tax adjustment, the formula is based on the equalized value of the housesite in excess of \$225,000 (previously \$250,000). For claimants with household income of less than \$90,000 but more than \$47,000, the formula is based on an equalized value of the housesite in excess of \$400,000 (previously \$500,000).

Municipalities are required to bill each taxpayer in a manner that clearly indicates that statewide education taxes are separate from other taxes, including an itemization of the separate taxes due. The bill may be on a single sheet of paper with the statewide education tax and other taxes presented separately and side by side.

Vermont Tax Structure Commission

Act 11 also establishes the Vermont Tax Structure Commission, composed of three to five members to be selected as follows: (1) the Speaker of the House, the President Pro Tempore of the Senate and the Governor shall each appoint one member; and (2) the

three members appointed may select one or two additional members based on majority vote.

The Commission will prepare a structural analysis of the State's revenue system and offer recommendations for improvements and modernization and provide a long term vision for the tax structure. Its review will include income taxes, consumption-based taxes, the education financing system, tax expenditures, and property and asset-based taxes. The Commission's goal is a tax system that provides sustainability, appropriateness and equity.

Statewide Bargaining for Public School Employee Health Benefits

The Act creates the Commission on Public School Employee Health Benefits, an independent commission that would determine, through negotiations, the amounts of the premiums and out-of-pocket expenses for school employee health benefits that shall be borne by school employers and by participating employees.

The Commission has 10 members, five of whom are representatives of school employees and five are representatives of school employers. The representatives of school employees are appointed as follows: (1) four members appointed by the labor organization representing the greatest number of teachers, administrators and municipal school employees in the State (Vermont-NEA) and (2) one member appointed by the labor organization representing the second greatest number of teachers, administrators and municipal school employees in the State (AFSCME). The five representatives of school employers are appointed by the organization representing the majority of public school boards in the State (VSBA).

All decisions of the Commission require the votes of a majority of the representatives of school employees and a majority of the representatives of school employers.

The Commission may hire staff as it deems necessary. Compensation for staff and administrative expenses must be shared equally by school employees and school employers. The Commission may adopt rules or procedures, or both, as needed to carry out its duties.

The duties of the Commission are: (1) determine the percentage of the premium for individual, two-person, parent-child, and family coverage that shall be borne by each school employer and the percentage that shall be borne by participating employees, (2) determine the amount of school employees' out-of-pocket expenses for which the school employer and school employees shall be responsible and whether school employers shall establish a health reimbursement arrangement or a health savings account, both, or neither, for their participating employees, and (3) determine the extent to which the employer or employee shall bear first dollar responsibility for out-of-pocket expenses if

using a health reimbursement arrangement and whether the balance in a participating employee's health reimbursement arrangement shall roll over from year to year. The Commission may also make recommendations regarding health benefit plan design to any inter-municipal insurance association that offers health benefit plans to entities providing educational services (VEHI).

The Act states that the Commission shall not make any determinations regarding school employer or school employee responsibilities with respect to stand-alone vision or dental benefits.

Negotiations

The Commission must commence negotiation of the above matters not later than April 1 of the year before the existing agreement is set to expire (April 1, 2019). At the commencement of negotiations, the Commission must select a person to serve as fact finder to assist it in resolving any matters remaining in dispute if the Commission is unable to reach agreement by August 1. The fact finder must be selected by a vote of the majority of representatives of school employees and of a majority of the representatives of school employers. If the Commission cannot agree on a fact finder by April 5, the American Arbitration Association shall be asked to appoint the fact finder.

Also by April 5, the Commission must mutually agree on an arbitrator to decide all matters remaining in dispute if it is unable to reach an agreement within 30 days after receiving the fact finder's report. If the Commission is unable to mutually agree on an arbitrator, it must form a three-member panel of arbitrators (one selected by the representatives of school employees, one selected by the representatives of school employers and one appointed by the American Arbitration Association).

The Commission is required to enter into a written agreement incorporating all matters agreed to in negotiation. The terms of the agreement are required to be incorporated by reference into all local collective bargaining agreements for school employees. The length of each agreement must be negotiated by the Commission but cannot be less than two years.

Dispute Resolution

If the Commission is unable to reach an agreement by August 1, it must meet with the fact finder not later than August 15. Before issuing his/her decision, the fact finder must attempt to mediate the matters remaining in dispute. If mediation fails to produce an agreement, the fact finder must submit a written report to the Commission by September 15, recommending a reasonable basis for the settlement of the matters remaining in dispute.

If the Commission is unable to resolve all matters remaining in dispute within 30 days after receiving the fact finder's report, the Commission must submit the matters remaining in dispute to the arbitrator. The representatives of school employees and the representatives of school employers must submit to the arbitrator their last best offer on all issues remaining in dispute. The arbitrator is required to select one of the last best offers in its entirety, without amendment.

The arbitrator must hold a hearing on or before November 15 at which the Commission members will submit all relevant evidence. In reaching a decision, the arbitrator is required to give weight to the following factors: (1) the interests and welfare of the public, (2) the financial ability of the Education Fund and school districts across the State to pay for the costs of health care benefits and coverage, (3) comparisons of health care benefits of school employees with health care benefits of similar employees in the public and private sectors in Vermont, (4) the average consumer prices for goods and services, commonly known as the cost of living, and (5) prior and existing health care benefits and coverage for school employees.

The arbitrator must issue a decision within 30 days after the hearing. The decision is final and binding upon the Commission and all school employers and school employees; it is not subject to ratification.

Upon petition of a Commission member within 15 days of the arbitration decision, a Superior Court shall vacate the decision if: (1) it was procured by corruption, fraud or other undue means, (2) there was evident partiality or prejudicial misconduct by the arbitrator(s), (3) the arbitrator(s) exceeded their power or rendered a decision requiring a person to commit an act or engage in conduct prohibited by law, or (4) there is an absence of substantial evidence on the record as a whole to support the decision.

At any time prior to the issuance of a decision by the arbitrator(s), the Commission may notify the arbitrator(s) of any additional issues on which a majority of the representatives of school employees and of the representatives of school employers have reached agreement.

The arbitrator(s) have the authority to address complaints that either party has engaged in or is engaging in unfair bargaining practices, including a refusal to bargain in good faith. If the arbitrator(s) find upon a preponderance of the evidence that a party has engaged in or is engaging in any unfair bargaining practice, the arbitrator(s) may include in the decision a remedy for the unfair bargaining practice consistent with 21 V.S.A. Section 1727(d).

Strikes and Contract Imposition Prohibited

School employees are prohibited from engaging in a strike in relation to pursuing an agreement covered by this proposed legislation. School employers are prohibited from imposing the terms of an agreement that is the subject of this proposed legislation.

Ratification of Agreement

The representatives of school employers and school employees must each develop procedures by which their members will ratify the agreement entered into by the Commission. If the agreement is determined by arbitration, it is not subject to ratification.

Duties of School Employers

Each school employer is required to (1) deduct from the gross wages of each participating employee a sum equal to the percentage of the premium determined by the Commission to be the employee's responsibility for the applicable tier of coverage, (2) remit to VEHI the amount determined by the Commission to be the employers' premium responsibility for each participating employee, along with the amount deducted from the employee's wages for the employee's premium share, (3) contribute toward the out of pocket expenses of each participating employee in the amounts and manner determined by the Commission to be the employer's responsibility, and (4) participate in any health reimbursement arrangement or health savings account, or both, in the amounts and to the extent determined by the Commission.

Health Care Benefit Transition

The bill states the intent of the General Assembly that the Commission endeavor to transition school employees and school employers to more equitable health care coverage statewide in a manner that is fair and practical for all parties involved. For the agreement to take effect on July 1, 2020, the Commission may agree to establish, or the arbitrator's decision may provide for, one set of contribution levels toward premiums and out-of-pocket expenses for teachers and administrators and a different set of contributions for non-licensed school employees (support staff).

Term of Interim Collective Bargaining Agreements

All collective bargaining agreements between a SU/SD and school employees shall expire between July 1, 2020 and September 1, 2020. The initial agreement negotiated by the Commission on Public School Employee Health Benefits shall be for incorporation by reference into collective bargaining agreements between a SU/SD and school employees that take

effect on or after July 1, 2020. The Commission is required to commence negotiations for the initial agreement on or before April 1, 2019.

Changes to Composition of VEHI Board; VEHI Plan Offerings

Act 11 requires the VEHI board to be composed of three members appointed by the organization representing the majority of the public school boards in the State (VSBA), who shall not be employees of the organization and three members appointed by the labor organization representing the greatest number of public school employees in the State (Vermont-NEA), who shall not be employees of the organization.

As is currently the case, VEHI must make all health benefit plans it offers available to approved or recognized independent schools operating in Vermont. Participating schools must be provided with copies of the annual audit.

Additionally, VEHI is required to continue to make the same health benefit plans it offers on July 1, 2018 available to public school employers and approved or recognized independent school employers, and their participating employees, until the expiration of the first agreement entered into by the Commission on Public School Employee Health Benefits. VEHI may modify its plan designs or plan offerings, or both, beginning with the health benefit plans to be offered in the first plan year to which the Commission's second agreement applies.

Health Benefits for Retired School Employees

Act 11 clarifies that it does not modify the health benefits or health benefit plans offered to retired school employees.

State Teachers' Retirement System Contributions Set

The Act appropriates the "normal" teacher retirement contribution in the amount of \$8,081,768.00 and the "accrued liability" contribution in the amount of \$97,559,009. The "normal" contribution is the annual contribution to the Teachers' Retirement System for active employees of the district. The Act does not add the "normal contribution" to the definition of a school district's education spending, as proposed in an earlier bill.

Employer Annual Charge for Teacher Health Care

Since 2013 school districts have been assessed an annual fee for every new teacher hired in the district; this fee is intended to cover a portion of the costs of retired teacher health care. This provision establishes the amount of the assessment in statute; previously the amount had been derived through actuarial calculations.

Beginning on July 1, 2018, employers of teachers who became members of the State Teachers' Retirement System of Vermont on or after July 1, 2015 must pay an annual assessment of \$1,275.00 for each such teacher to the Benefits Fund. Beginning on July 1, 2019 and each year thereafter, the annual assessment will be adjusted to account for inflation.

The employer annual charge for teacher health care is repealed on July 1, 2023. On or before January 15, 2023, the State Treasurer, in consultation with the Vermont –NEA and Vermont Association of School Business Officers, is required to evaluate and prepare a report on the impact of repealing the employer annual charge for teacher health care.

Staff to Student Ratios Task Force

Act 11 creates a Staff-to-Student Ratios Task Force, a collaborative effort among government, nonprofit organizations, research experts, and other education stakeholders that will strive to ensure educational quality while simultaneously ensuring fiscal efficiency in the context of the State's declining student population.

Members of the Task Force are the following or their designee: (1) Secretary of Education, (2) Executive Director of the Vermont Superintendents Association, (3) Executive Director of the Vermont School Boards Association, (4) Executive Director of the Vermont Principals' Association, (5) Executive Director of the Vermont-National Education Association, (6) one member selected by the Vermont Association of School Business Officials, (7) two to four members from Vermont post-secondary institutions, selected by the Task Force, who have expertise in multi-age classrooms and teaching strategies, interdisciplinary instruction, school realignment and reconfiguration, or the impact of community poverty, trauma or addiction on education staffing, and (8) a national expert in rural education, selected by the Task Force.

The Task Force will (1) review current ratios for specific categories of schools and school district configurations and establish optimal target ratios for different school district configurations, (2) identify barriers that hamper staffing flexibility, including whether aspects of the regulatory environment, including mandatory staffing requirements and collective bargaining or other contractual obligations contribute to lower staff-to-student ratios, (3) align the work of the Task Force with existing research findings and reports, based on studies conducted either nationally or in New England, concerning optimal class and school sized for successful learning outcomes and the impact of population decline on rural schools, (4) attend to compliance with federal rules and regulations, (5) determine a mechanism that accounts for the effects of familial and community level poverty and human services need, including student experiences of trauma and familial or community level addiction on staffing ratios, (6) consider the

impact of staff-to-student ratios due to students' enrollment with independent schools, and (7) develop recommended strategies for districts to help them meet the targets.

On or before December 15, 2018, the Task Force must present to the House and Senate Committees on Education its findings concerning optimum staff-to-student ratios, including optimum ratios for a variety of school and school district sizes and configurations. The report will include a recommendation as to whether staff-to-student target ratios should be included in statute for fiscal year 2021. The Task Force ceases to exist on December 31, 2018.

Prekindergarten Education Study

Act 11 also requires the Agency of Education and the Agency of Human Services to commission an independent study to recommend how to more effectively and efficiently provide prekindergarten education. The study must consider: (1) whether the current delivery models are working effectively and, if not, the issues with the current models and recommendations to enhance the quality and effectiveness of these models, (2) how Vermont families make early care and education arrangements for their children under six years of age, including what factors may constrain parental choices, (3) how well the prekindergarten system is operating to provide prekindergarten education to all eligible Vermont children and how to provide equitable access to children from economically deprived backgrounds, (4) how to identify ways that the prekindergarten education system may create undesirable outcomes for prekindergarten students, their parents or guardians, or providers of education services or child care services, and steps to mitigate them, and (5) how to simplify regulatory oversight and administration of prekindergarten education.

Deadlines for the Agency of Education include: (1) reporting on the status of the independent study to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare on or before March 15, 2019 and (2) reporting the results of the study to such committees by July 1, 2019.

School Finance and Financial Data Management Systems

Not later than July 1, 2020, all Vermont supervisory unions, supervisory districts, school districts and independent tech center districts are required to utilize the same school finance and financial data management system (see exceptions below), selected by the Agency of Education. The Agency is required to work with participating supervisory unions to (1) conform to a uniform chart of accounts, (2) improve the comparability, consistency and timeliness of school financial data, (3) enhance the abilities of the General Assembly, Agency of Education, supervisory unions, and supervisory districts to better understand and manage cost centers and related school expenditures, and (4) categorize expenditures in a way that draws a distinction between

direct educational expenses and expenses that are primarily human or social services expenses.

Supervisory unions with districts that are merging into a new governance structure as of July 1, 2018 and that have executed a contract on or before May 1, 2018 to acquire a new school finance and financial data system other than the management system selected by the Agency of Education to serve the merged system may delay adoption of the system selected by the Agency until July 1, 2021.

Also, a supervisory union or supervisory district that entered into a contract for a school finance and financial data management system on or after July 1, 2017, may delay adoption of the new system selected by the Agency until July 1, 2021 or upon expiration of the current contract, whichever is earlier.

Data and Information in Format Approved the Secretary of Agency of Education
16 V.S.A. Section 242(4) is amended to require budgetary data and information to be submitted using a format approved by the Secretary.

Educator Licensure Requirements

Act 11 requires the Vermont Standards Board for Professional Educators to consider whether the current educator licensure and endorsement requirements are appropriate or should be updated. As part of its review, the Board must consider whether a school-based teacher quality and performance measurement program approved by the New England Association of Schools and Colleges or examination offered by the Smarter Balanced Assessment Consortium should be used as criteria to qualify for licensure and endorsement. The Board will report its findings and recommendations to the House and Senate Committees on Education on or before December 1, 2018.

As part of its review, the Board must consider whether the educator licensure and endorsement requirements for teachers in career technical education centers are appropriate or should be updated. After the House and Senate Committees on Education have concluded their consideration of the above report, the Vermont Standards Board for Professional Educators and the State Board of Education are required to either update their educator licensure and endorsement rules for teachers in career technical education centers or issue a report to the House and Senate Committees on Education that they do not intend to update these rules. Until the updated rules are implemented or the report is issued, teachers employed by career technical centers who were hired before April 1, 2018 and who do not have the licensure or endorsement that is required under applicable rules are exempt from the rules and any requirement to pursue licensure or endorsement under the rules.

An employee in an approved area career technical center located in an approved independent school who was hired before April 1, 2018 and who did not have the licensure or endorsement that is required under applicable rules governing career technical centers is exempt from the rules. An employee hired on or after April 1, 2018 is subject to the rules and an employee hired before April 1, 2018 who complied with the rules must maintain his or her licensure and endorsements as required by the rules. This provision was included to address the fact that instructors at the tech centers at St. Johnsbury Academy and Lyndon Institute do not have the licensure or endorsements currently required under the rules.

Restorative Justice Principles for Responding to School Discipline Problems

On or before July 1, 2019, the Agency of Education is required to issue guidance to all public school boards and boards of approved independent schools that sets out restorative justice principles for responding to school discipline problems. Boards must consider the guidance and whether to adopt a policy on the use of restorative justice principles for responding to school discipline problems.

The restorative justice principles contained in the Agency guidance must be designed to: (1) decrease the use of exclusionary discipline, (2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual orientation, immigration status, or disability status and (3) provide students with the opportunity to make academic progress while suspended or expelled.

Restorative Justice Grant Program

The Agency of Education is required to use funding under 16 V.S.A. Section 2969(c) (up to one percent of the state funds appropriated under this subchapter) to assist public and approved independent schools with the adoption and implementation of restorative justice principles for responding to school discipline problems. The Agency will monitor the use of grant monies and determine (1) the eligibility criteria for receiving a grant and (2) the grant amount.

On or before December 1, 2018, 2019 and 2020, the Secretary of the Agency must submit a written report to the House and Senate Committees on Education and on Judiciary describing the eligibility criteria for receiving a grant and for determining the grant amount, identifying the grant recipients, the amounts they received and the use of the grant monies by the recipients.

Clarification on Elections/Vacancies of Unified Union School District Boards

Act 11 extends the provision that was approved last year by two additional years. The provision states that the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director

shall be held at the district's annual meeting in accordance with the district's articles of agreement.

In addition, if a vacancy occurs on the board of a unified union district board and the vacancy is in a seat that is allocated to a specific town, the clerk is required to immediately notify the selectboard of the town. Within 30 days of receipt of that notice, the unified union school district board, in consultation with the select board, is required to appoint a person to fill the vacancy until an election is held in accordance with the unified union school district's articles of agreement. This section is repealed on July 1, 2020.

Interstate School District

Act 11 includes a statement of support from the General Assembly regarding a study of the formation of an interstate school district that would merge the Stamford school district and the Clarksburg, Massachusetts school district. The board of the Stamford school district is required to report its findings and recommendations to the General Assembly on or before December 15, 2018.

Act 190 - School Safety Grants and Advisory Group

School Safety and Security Grant Program

[Act 190](#) appropriates \$4,000,000.00 in fiscal year 2019 to the Department of Public Safety for a School Safety and Security Capital Grant Program (program is repealed on July 1, 2019). The General Assembly expects this amount to be enhanced by an additional \$1,000,000.00 in federal funds.

The School Safety and Security Capital Grant Program will be administered by the Department of Public Safety and is designed to enhance safety and security in Vermont schools. These capital grants must be used for planning, delivery and installation of equipment for upgrades to existing school security equipment and for new school security equipment identified through threat assessment planning and surveys designed to enhance building security.

Guidelines for the capital grants include: (1) Grants shall be awarded competitively to schools for capital-eligible expenses to implement safety and security measures identified in a security assessment. Capital-eligible expenses may include video monitoring and surveillance equipment, intercom systems, window coverings, exterior and interior doors, locks and perimeter security measures. (2) Grants shall only be awarded after a security assessment has been completed by the Agency of Education and the Department of Public Safety. (3) The Program is authorized to award capital grants of up to \$25,000.00 per school. Each school is required to provide a 25% match to the

grant amount. The required match must be met through dollars raised and not in kind services. The administration of the School Safety and Security Grant Program is already underway.

School Safety Advisory Group

Act 190 also creates a School Safety Advisory Group to develop statewide guidelines and best practices concerning school safety and the prevention of school shootings. The six member Advisory Group includes the following people or their designee: (1) Secretary of Administration, (2) Secretary of Education, (3) Commissioner of Public Safety, (4) Executive Director of the Vermont School Boards Association, (5) President of the Vermont-National Education Association, and (6) a representative of the Vermont Principals' Association. (Note: We are aware that perhaps the most appropriate member of this group, a representative of the Vermont Superintendents Association, was inadvertently left off the member list. We tried unsuccessfully to remedy this. Vermont Superintendents Association will work to provide input to the group.)

The Advisory Group is required to study the following issues and develop specific guidelines and best practices for Vermont schools: (1) improving security in and around school buildings and property, (2) ensuring staff and students know what they should do in the event of a school shooting or other incident, (3) training for staff and students, including the type and frequency of training, (4) sharing information with parents and the community if an event occurs, and (5) gathering information on security measures implemented in schools from corresponding state education and public safety departments in states where school shootings have occurred.

On or before July 1, 2018, the Advisory Group is required to submit a written report to the General Assembly with its findings, including specific guidelines and best practices and any recommendations for legislative action necessary to ensure that all schools in Vermont begin implementing those guidelines and best practices, and have a plan for compliance before the next school year. The Advisory Group ceases to exist on July 1, 2019.

School Planning Grants for Capital Construction; Unified Union School Districts; School Consolidation

The Secretary of Education is required to accept applications for planning grants for capital construction that would result in the consolidation of student populations and the closure of at least one building.

A district is eligible to apply for a planning grant if it (1) is a unified union school district created by affirmative votes of the electorate between June 30, 2015 and December 31, 2018, (2) is either its own supervisory district or is a member district within a

supervisory union, (3) is fully operational or will be fully operational before July 2, 2018, and (4) provides or is intended to provide education for students in the same grade, after becoming fully operational, by operating more than one school building offering that grade.

An eligible district can apply for a grant to reimburse the cost of architects,, engineers or other professional planning costs if the proposed project will (1) consolidate the provision of education of all resident students in at least four grades into one existing building that will house those grades either by renovating or adding additional square footage to that building, or both, and (2) result in the closure of at least one existing building that houses those grades in a year prior to the proposed consolidation of students.

If an eligible district operates more than two schools providing education in the pertinent grades, then a project is eligible if the project will result in the closure of at least one school building and the consolidation of students into one or more remaining buildings.

An eligible district must submit an application to the Secretary of Education on or before October 1, 2018, specifying the purpose of and the need for the proposed eligible project, including educational specifications based upon a facility analysis and enrollment projections.

The application must concisely provide details addressing the ways in which the proposed project will (1) cause the eligible district to provide education in a manner that is more educationally appropriate, (2) cause the eligible district to provide education in a manner that provides greater educational opportunities in a more equitable manner, (3) result in or lead to sustained financial savings for the eligible district, (4) result in or lead to more efficient use of statewide education funds, (5) result in improvements that comply with standards in school construction, and (6) incorporate recommendations received after consultation with the School Energy Management Program and Efficiency Vermont, as appropriate.

On or before October 15, 2018, the Secretary must present a prioritized list of eligible projects for inclusion in the Governor's annual consolidated capital budget request.

Notwithstanding the grant program authorized in this section, State aid for school construction remains suspended.

Act 173 - Comprehensive Special Education Funding and Practice

[Act 173](#) strives to enhance the effectiveness, availability and equity of services provided to all students who require additional support, including students receiving special education services and students who need additional support but do not receive special education services. To support the delivery of these services, the bill changes the funding model for special education from a reimbursement model to a census-based model, which provides more flexibility in how funding can be used, is aligned with the State's policy priorities of serving students who require additional support across the general and special education service-delivery systems and simplifies administration.

Tiered System of Supports and Educational Support Team

Section 4 requires each public school to develop and maintain a tiered system of support that includes an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom. The tiered system of support must provide professional development, as needed, to support all staff in full implementation of the multi-tiered system of support.

The tiered system of supports cannot be used by a district to deny a timely initial comprehensive special education evaluation for children suspected of having a disability. The Agency of Education is required to adopt policies and procedures to ensure that a school district's evaluation of a child suspected of having a disability is not denied because of implementation of the tiered system of academic and behavioral supports.

The policies and procedures must include: (1) the definition of what level of progress is sufficient for a child to stop receiving instructional services and supports through the tiered system of academic and behavioral supports, (2) guidance on how long children are to be served in each tier, and (3) guidance on how a child's progress is to be measured.

Students Who Require Additional Support

Section 5 defines a "student who requires additional support" as a student: (1) who is on an individualized education program, (2) who is on a section 504 plan, (3) who is not on an individualized education program or a section 504 plan, but whose ability to learn is negatively impacted by a disability or by social, emotional or behavioral needs, or whose ability to learn is negatively impacted because the student is otherwise at risk, (4) for whom English is not the primary language, or (5) who reads below grade level.

Census Based Funding Model; Amendment of Special Education Laws

Section 5 provides that each supervisory union/supervisory district will receive a census grant each fiscal year to support the provision of special education services to students on an individualized education program. This section is effective July 1, 2020.

For fiscal year 2021, the amount of the census grant for a supervisory union is: the average amount it received for fiscal years 2017, 2018 and 2019 from the State for special education (standard mainstream block grants, special education expenditures reimbursement and exceptional circumstances), increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

The above amount is divided by the SU/SD's long-term membership to determine the base amount of the census grant, which is the amount of the census grant calculated on a per student basis.

For fiscal year 2025 and subsequent fiscal years, the amount of the census grant for a SU/SD is the uniform base amount multiplied by the SU/SD's long term membership. The uniform base amount is determined by: (1) dividing an amount equal to the average State appropriation for fiscal years 2018, 2019 and 2020 for special education (standard mainstream block grants, special education expenditures reimbursement, and exceptional circumstances) and increased by the annual change in the NIPA Implicit Price Deflator by (2) the statewide average daily membership for prekindergarten through grade 12 for the 2019-2020 school year.

For fiscal years 2022, 2023, and 2024, the amount of the census grant for a SU/SD is determined by multiplying the SU/SD's long-term membership by a base amount. The base amounts for each SU for fiscal years 2022, 2023, and 2024 move gradually the SU's fiscal year 2021 base amount to the fiscal year 2025 uniform base amount by pro rating the change between the SU's fiscal year 2021 base amount and the fiscal year 2025 uniform base amount over this three-fiscal-year-period.

Extraordinary Special Education Reimbursement

Section 5 defines "extraordinary expenditures" as a SU/SD's allowable special education expenditures that for any one child in a fiscal year exceed \$60,000.00, increased annually by the NIPA Implicit Price Deflator. As used in this section, "child" means a student with disabilities who is three years of age or older in the current school year.

If a SU/SD has extraordinary expenditures, it is eligible for extraordinary special education reimbursement. A SU/SD that has extraordinary expenditures in a fiscal year for any one child is eligible for reimbursement equal to: (1) an amount equal to its special education expenditures in that fiscal year for that child that exceed the extraordinary expenditures threshold amount, multiplied by 95 percent, plus (2) an amount equal to the lesser of (a) the amount of its excess expenditures or (b) the extraordinary expenditures threshold amount minus the base amount of the census grant received by the SU/SD for that fiscal year, multiplied by 60 percent.

The State Board of Education is required to establish by rule the administrative process for SU/SD's to submit claims for extraordinary reimbursement and for the review and payment of those claims.

A SU/SD, in its role as local education agency, may place a student with an individualized education program with certain approved independent schools that accept public tuition. If the approved independent school is entitled to special education cost reimbursement, it may bill the SU/SD for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures threshold, the SU/SD is entitled to extraordinary reimbursement for that student as if it incurred those costs directly.

Aid Projection

On or before December 15, the Secretary is required to publish an estimate of each SU/SD's anticipated special education aid for the ensuing school year.

Payments

On or before August 15, December 15 and April 15 of each fiscal year, the State Treasurer is required to withdraw from the Education Fund, based on a warrant issued by the Commissioner of Finance and Management, and forward to each supervisory union one-third of the census grant due to the supervisory union for that fiscal year.

On or before November 15, January 15, April 15, and August 1 of each school year, each supervisory union, to the extent it incurs extraordinary expenditures, must file a financial report with the Secretary describing total extraordinary expenditures actually incurred during the reporting period.

On or before December 15, February 15, May 15, and September 15 of each school year, based on the warrant issued by the Commissioner of Finance and Management, the State Treasurer must withdraw from the Education Fund and forward to each supervisory union the amount of extraordinary reimbursement incurred by the

supervisory union that is unreimbursed and determined by the Agency of Education to be payable to the supervisory union.

For the purpose of meeting the needs of students with emotional or behavioral challenges, each fiscal year the Secretary is required to use up to one percent of the State funds appropriated under this chapter for training, program development and building school and regional capacity.

For the training of teachers, administrators and other personnel in the identification and evaluation and provision of educational services to children who require educational supports, the Secretary is required to use up to 0.75 percent of the state funds appropriated under this chapter each fiscal year. The Secretary may expend up to five percent of these funds for statewide training and shall distribute the remaining funds to school districts or supervisory unions.

School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in their school systems and give assurances that at least 50 percent of the costs of training, including in kind costs, will be assumed by the SU/SD. The Secretary is required to establish written procedures and criteria for the award of funds. In addition, the Secretary may identify schools most in need of training assistance and pay for 100 percent of the assistance to the SU/SD for these schools to fund the provision of training assistance.

Fiscal Review

The Secretary is required to report the following to the State Board annually: (1) the total amount of census grants made to SU/SD's, (2) the total amount of extraordinary special education reimbursement made to SU/SD's, (3) the results for special education students, (4) the availability of special education staff, (5) the consistency of special education program implementation statewide, (6) the status of tiered systems of supports in SU/SD's, and (7) a statewide summary of the special education student count.

Unusual Special Education Costs; Financial Assistance

The Secretary may use up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in State Board Rules, to directly assist SU/SD's with special education expenditures of an unusual or unexpected nature.

Census-Based Funding Advisory Group

The bill creates a Census-Based Funding Advisory Group to make recommendations on the implementation of the census-based model of funding for students who require additional support.

The Advisory Group includes the following fourteen members or their designee: (1) the Executive Director of the Vermont Superintendents Association, (2) the Executive Director of the Vermont School Boards Association, (3) the Executive Director of the Vermont Council of Special Education Administrators, (4) the Executive Director of the Vermont Principals' Association, (5) the Executive Director of the Vermont Independent Schools Association, (6) the Executive Director of the Vermont- National Education Association, (7) the Secretary of Education, (8) one member selected by the Vermont- National Education Association who is a special education teacher, (9) one members selected by the Vermont Association of School Business Officials, (10) one member selected by the Vermont Legal Aid Disability Law Project, (11) one member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights, (12) the Commissioner of the Vermont Department of Mental Health, (13) one member wo represents an approved independent school, selected by the Council of Independent Schools, and (14) one member selected by the Vermont Council of Special Education Administrators who is a special education teacher and who teaches in a school that is located in a different county that the special education teacher selected by the Vermont- National Education Association.

The Advisory Group is charged with (1) advising the State Board of Education on the development of proposed rules to implement H.897 prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules, (2) advising the Agency of Education and supervisory unions on the implementation of H.897, and (3) recommending to the General Assembly any statutory changes it determines are necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. Chapter 101 in Sec. 5 of H.897.

The Secretary must call the first meeting of the Advisory Group on or before September 30, 2018. On or before January 15, 2019, the Advisory Group is required to submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations on proposed rules to implement this act and any recommendations for additional legislation.

On or before January 15 of 2020, 2021, and 2022, the Advisory Group is required to submit supplemental written reports to the House and Senate Committees on Education and the State Board of Education with a status of implementation under this act and any recommendations for legislation. The Advisory Group ceases to exist on June 30, 2022.

Census Grant Supplemental Adjustment; Pupil Weighting Factors

The Agency of Education, in consultation with the Secretary of Human Services, the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont-National Education Association must consider and make recommendations on the following: (1) whether the census grant should be increased for SU/SD's that have, in any year, relatively higher costs in supporting students who require additional support and, if so, the criteria for qualification for the adjustment, (2) methods, other than the use of weighting factors, that would further the quality and equity of outcomes for students, and (3) the criteria to use for determining weighted long term membership of a school district.

On or before November 1, 2019, the Agency of Education must submit a report to the House and Senate Committees on Education, the House Committee on Ways and Means and the Senate Committee on Finance with its findings and any recommendations,

Training and Technical Assistance on the Delivery of Special Education Services

For the 2018-2019, 2019-2020 and 2020-2021 school years, the Agency of Education is required to assist SU/SD's to expand and improve their delivery of services to students who require additional support.

This assistance includes the training of teachers and staff and technical assistance with the goal of embedding the following best practices for the delivery of special education services: (1) ensuring core instruction meets most needs of most students, (2) providing additional instructional time outside core subjects to students who require additional support, rather than providing interventions instead of core instruction, (3) ensuring students who require additional support receive all instruction from highly skilled teachers, (4) creating or strengthening a systems-wide approach to supporting positive student behaviors based on expert support, and (5) providing specialized instruction from skilled and trained experts to students with more intensive needs.

\$200,000.00 is appropriated from federal funds that are available under the Individuals with Disabilities Education Act for fiscal year 2019 to the Agency of Education for training and technical assistance. The Agency is required to include in its budget request to the General Assembly for each of fiscal years 2020 and 2021 the amount of \$200,000.00 from federal funds that are available under the Individuals with Disabilities Education Act for administration in accordance with this section of H.897.

The Agency of Education is required to present a report to the General Assembly on or before December 15 in 2019, 2020 and 2021 describing the changes SU/SD's have made

to expand and improve their delivery of services to students who require additional supports and describing the associated delivery challenges.

Agency of Education Staffing

The following positions are created in the Agency of Education: one full time, exempt legal counsel specializing in special education law and two full time, classified positions specializing in effective instruction for students who require additional support. \$325,000 is appropriated from the General Fund to the Agency of Education in fiscal year 2019 for salaries, benefits and operating expenses.

Extraordinary Services Reimbursement

Section 14 sets the amount of extraordinary services reimbursement provided to each school district or supervisory union at 95 percent of extraordinary special education expenditures (previously 90 percent).

"Extraordinary special education expenditures" means a school district's or supervisory union's allowable expenditures that for any one child exceed \$60,000.00 (previously \$50,000.00) for a fiscal year. For this subsection, "child" means a student with disabilities who is three years of age or older in the current school year.

This section is effective July 1, 2019.

Rulemaking

The Agency of Education must recommend to the State Board proposed rules that are necessary to implement this act and, on or before November 1, 2019, the State Board of Education must adopt rules to implement this act. The State Board and the Agency of Education must consult with the Census Based Funding Advisory Group in developing the rules.

Service Plans and Maintenance of Effort

Section 17 provides that SU/SD's are not required to submit service plans to the Secretary of Education for fiscal year 2021. On or before November 1, 2019, each supervisory union must submit such information as required by the Secretary to estimate the supervisory union's projected fiscal year 2021 extraordinary special education reimbursement.

The Agency of Education is required to assist SU/SD's as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

This section is effective July 1, 2019.

Allowable Special Education Costs

Allowable special education costs include salaries and benefits of licensed special education teachers, vocational special needs teachers and instructional aides for the time they carry our special education responsibilities. This section is repealed on July 1, 2020.

Approved and Recognized Independent Schools; Financial Capacity

If an approved independent school experiences any of the following financial reporting events during its approved status, it is required to notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimus: (1) failure to file federal or State tax returns when due, after permissible extension periods have been taken into account, (2) failure to meet payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due, (3) failure to maintain required retirement contributions, (4) use of designated funds for non-designated purposes, (5) inability to fully comply with financial terms of secured installment debt over a period of two consecutive months, (6) withdrawal or conditioning of a school's accreditation on financial grounds by a private, State or regional agency recognized by the State Board for accrediting purposes, or (7) the school's insolvency.

If the State Board reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives, the Board must notify the school in writing and give the school a reasonable opportunity to respond.

If the State Board does not find that the school has satisfactorily responded or demonstrated its financial capacity, the State Board may establish a review team to conduct a school visit, obtain financial documentation and submit a report to the State Board. If the State Board concludes that the school lacks financial capacity, the Board may take action authorized by this section.

Approval of Independent Schools Accepting Public Dollars

Section 20a provides that an independent school that intends to accept public tuition will be approved by the State Board only on the condition that the school agrees to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or the local education agency (LEA). This section is effective July 1, 2022.

The above requirement does not apply to an independent school that limits enrollment to students who are on an individualized education program or a plan under Section 504 and who are enrolled pursuant to a written agreement between the LEA and the school.

Independent Schools – Compliance With Special Education Requirements

Section 21 provides that in placing a student with an independent school, the student's individualized education program team and the LEA are required to comply with all applicable federal and State requirements. This section is effective July 1, 2022.

In order to be approved as an independent school eligible to receive State funding, the school must demonstrate the ability to serve students with disabilities by: (1) demonstrating an understanding of special education requirements, including the provision of a free and appropriate education in accordance with federal and State law, the provision of education in the least restrictive environment, characteristics and educational needs associated with any of the categories of disability, and procedural safeguards and parental rights, including discipline procedures, specified in federal and State law; (2) committing to implementing the IEP of an enrolled student with special education needs, providing the services and appropriately documenting the services and the student's progress; (3) employing or contracting with staff who have the required licensure to provide special education services; (4) agreeing to communicate with the responsible LEA concerning the development of, and any changes to, the IEP, recommendations for changes to services provided under the IEP, the student's progress, the maintenance of the student's enrollment in the independent school, and the identification of students with suspected disabilities; and (5) committing to participate in dispute resolution as provided under federal and State law.

An independent school is not required to demonstrate that it has the resources to serve every category of special education as defined under State Board Rules in order to be approved or retain its approval to received public funding for general tuition.

Residential Placement

The Secretary of Education is required to set the maximum rates to be paid by the Agency and SU/SD's for tuition, room and board for residential placement of students who require special education services. The amount charged by an independent school for tuition must reflect the school's actual or anticipated costs of providing special education services to the student and cannot exceed the maximum rates established by the Secretary.

Excess Special Education Costs

An approved independent school may bill the responsible LEA for excess special education costs incurred by the school in providing special education services beyond

those covered by general tuition. Reimbursement of these excess costs must be based on the direct-cost rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education Technical Manual for special education cost accounting. The Agency of Education is required to publish specific elements that must be included as part of an independent school's invoice for excess special education costs.

Approved independent schools must provide documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable to the school are reasonable in relation to the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment pending the Secretary's receipt of required documentation.

Maximum Tuition Rates – Limited Enrollment Schools

The Secretary will set maximum tuition rates, based on the level of services provided, to be paid by the Agency and SU/SD's to independent schools that limit enrollment to students who are on an IEP or a plan under section 504. Such schools are not allowed to exceed the set tuition rates until a new rate is approved by the Secretary.

Written Agreements Required

An approved independent school that enrolls a student requiring special education services is required to enter into a written agreement with the LEA committing to the requirements to be approved and receive State funding.

Inability to Retain Qualified Staff

If a student is placed with an approved independent school and the school is unable to provide the required IEP services due to its inability to retain qualified staff, then the LEA is required to make another placement that satisfies the federal requirements to provide the student with a free and appropriate public education in the least restrictive environment.

In this event, the independent school is not subject to any disciplinary action or revocation of approved status by the State Board due to its failure to enroll the student and there is no private right of action on the part of the student or family members to require the LEA to place the student in the independent school or hold the LEA or the independent school responsible for monetary damages due to the necessity to make an alternative placement.

If the LEA and approved independent school do not agree on whether the school is unable to retain qualified staff, then the LEA and the school must jointly contract with a

hearing officer to conduct a hearing and make a determination, which shall be final. The cost of the hearing officer must be split evenly between the two parties.

Special Education Endorsement

On or before November 1, 2019, the Vermont Standards Board for Professional Educators is required to review its special educator endorsement requirements and initiate rulemaking to update its rules to ensure that these requirements do not serve as a barrier to satisfying statewide demands for licensed special educators.

On or before November 1, 2020, the State Board of Education is required to review its rules for approving independent schools in specific special education categories and initiate rulemaking to update its rules to simplify and expedite the approval process.

Effective Dates

The following take effect on July 1, 2019: Section 14 (extraordinary reimbursement), Section 15 (changes to 16 V.S.A. Section 4001) and Section 17 (transition). Section 5 (census-based funding model) takes effect on July 1, 2020. Sections 20a-21 (approved independent schools) take effect on July 1, 2022.

All other sections take effect on passage.

Act 204 - Adverse Childhood Experiences

[Act 204](#) seeks to ensure a consistent family support system by enhancing opportunities to build resilience among families throughout the State that are experiencing the causes or symptoms of childhood adversity. The act takes effect on July 1, 2018.

Director of Childhood Trauma Prevention and Resilience Development

Act 204 creates the position of Director of Childhood Trauma Prevention and Resilience Development within the Agency of Human Services. The Director is responsible for coordinating systemic approaches across State government that build childhood resiliency and mitigate toxic stress through a public health approach. Among the Director's tasks are collaborating with the Agency of Education and the Judiciary to build consistency between trauma-informed systems that address medical and social service needs and serve as a conduit between providers and the public.

Childhood Adversity Response Plan

On or before January 15, 2019, the Agency of Human Services is required to present to the House Committees on Health Care and Human Services and the Senate Committee on Health and Welfare a plan that addresses the integration of evidence-informed and family-focused prevention, intervention, treatment and recovery services for individuals

affected by childhood adversity. The plan is required to address the coordination of services throughout and among the Agency of Human Services, the Agency of Education and the Judiciary.

Act 166 – Changes to Open Meeting Law and Public Records Act

Open Meeting Law Changes

[Act 166](#) clarifies what constitutes a meeting under the Open Meeting Law. First, the act defines "business of the public body" as: the public body's governmental functions, including any matter over which the public body has supervision, control, jurisdiction or advisory power.

The act goes on to specify that "meeting" does not include any communication, including in person or through e-mail, telephone or teleconferencing between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting, provided that no other business of the public body is discussed or conducted.

"Meeting" also does not include occasions when a quorum of a public body attends social gatherings, conventions, conferences, training programs, press conferences, media events, other otherwise gathers, provided that the public body does not discuss specific business of the public body that, at the time of the exchange, the participating members expect to be business of the public body at a later time.

Finally, "meeting" does not include a gathering of a quorum of a public body at a duly warned meeting of another public body, provided that the attending public body does not take action on its business.

Public Records Changes

The act clarifies the definition of "promptly" under the Public Records Act, as it relates to the obligation of a custodian of a public record to promptly disclose a record.

"Promptly" means immediately, with little or no delay, and, unless otherwise provided in this section, not more than three business days (1) from the receipt of a request or (2) in the case of a reversal or appeal by a head of agency, from the date of the determination on appeal.

The head of each State agency or department is required to designate a records officer and post on the agency's or department's website the name and contact information of the designated person.

The act also makes changes to the process whereby the General Assembly designates certain types of records as exempt from disclosure. On or before December 1, 2019, the Office of Legislative Council is required to compile a list arranged in order by title and section number of all Public Records Act exemptions found in Vermont Statutes Annotated that are repealed, or are narrowed in scope, on or after January 1, 2019.

The list must indicate (1) the effective date of the repeal, or narrowing in scope, of the exemption and (2) whether or not records produced or acquired during the period of applicability of the repealed or narrowed exemption are to remain exempt following the repeal or narrowing in scope.

Additionally, for any exemption in the Public Records Act enacted or substantively amended in legislation introduced in the General Assembly in 2019 or later, in the fifth year after the enactment, reenactment or substantive amendment of the exemption, the exemption is repealed on July 1 of that fifth year except if the General Assembly reenacts the exemption.

A record produced or acquired during the period of applicability of an exemption that is subsequently repealed or narrowed in scope will, if exempt during that period, remain exempt following the repeal or narrowing in scope of the exemption.

Act 5 - Protecting Students From Sexual Exploitation

Employment Separation Agreements

[Act 5](#) provides that, in accordance with 21 V.S.A. Section 306, a board member, superintendent, or headmaster shall not enter into on behalf of a supervisory union, school district, or recognized or approved independent school a confidential employment separation agreement that inhibits the disclosure to prospective employers and responsible licensing entities of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor.

The Act also requires board members, superintendents, headmasters, and employees of supervisory unions and approved independent schools to provide factually correct information concerning a former employee's employment record with the supervisory union, school district or recognized or approved independent school to a prospective employer of that individual if requested by the prospective employer.

Nothing in this section permits the disclosure of information that is prohibited from disclosure in the below Confidentiality section.

The Act further provides that a person shall not be subject to civil or criminal liability for disclosing information that is required to be disclosed if the person was acting in good faith. This immunity from liability does not apply when the information supplied by a person is knowingly false or rendered with a malicious purpose.

Confidentiality of Records

Criminal records and criminal record information are designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to a specifically designated person.

The Secretary of the Agency of Education, a superintendent or a headmaster may disclose criminal records to a qualified entity upon request, provided the qualified entity has signed a user agreement and received authorization from the subject of the record request.

“Qualified entity” means an individual, organization or governmental body doing business in Vermont that has one or more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities.

Committee for Protecting Students From Sexual Exploitation

The Act creates a 12 member Committee for Protecting Students from Sexual Exploitation composed of the following or their designee: (1) the Attorney General, (2) the Secretary of Education, (3) the Executive Director of the Vermont School Boards Association, (4) the Executive Director of the Vermont Independent Schools Association, (5) the Executive Director of the Vermont-NEA, (6) the Executive Director of Child Abuse Vermont, (7) the Executive Director of the Vermont Network Against Domestic and Sexual Violence, (8) the Executive Director of the Department of State's Attorneys and Sheriffs, (9) the Defender General, (10) the Commissioner for Families and Children, (11) the Executive Director of the Vermont Superintendents Association, and (12) a member appointed by the Northwest Unit of the Special Investigation Units with experience in investigating grooming behaviors.

The Committee must recommend whether behaviors by an employee of, or contractor for, a public school or recognized or approved independent school designed to establish a romantic or sexual relationship with a child or a student, known as “grooming behaviors,” should be unlawful under Vermont law. If the Committee recommends that grooming behaviors should be unlawful, it must include in its recommendation:

- (1) how grooming behaviors should be defined;
- (2) whether all students or children in a school environment should be covered;

- (3) whether the behavior should result in a misdemeanor or a felony, and the related punishment; and
- (4) the statute of limitations for bringing a related action.

On or before October 15, 2019, the Committee must submit a written report to the House and Senate Committees on Education and on Judiciary with its findings and any recommendations.

Model Policy on Electronic Communications

On or before July 1, 2019, the Agency of Education, in collaboration with the Vermont School Boards Association and the Council of Independent Schools, is required to develop a model policy on electronic communications between school employees and students designed to prevent exploitation of children. This mandatory policy must be adopted by public schools and recognized and approved independent schools for the 2019-2020 school year and maintained for future school years.

Effective Date

The bill took effect on passage. It was signed by the Governor on June 19, 2018

Act 189 - Workforce Development

In [Act 189](#), the General Assembly finds that a skilled and productive workforce is critical for the economic vitality of Vermont and that Vermont currently faces several key labor market challenges. The Act states that a major part of the solution to these challenges lies in Vermont's building an effective and efficient State workforce development system that is a diverse public-private partnership among employers, government and education and training providers designed to ensure that individuals have the skills businesses need.

State Workforce Development Board Established

The Act requires the Governor to establish the State Workforce Development Board which has authority, among other things, to approve State-endorsed and industry-recognized credentials and certificates, excluding high school diplomas and postsecondary academic degrees, that are aligned with the Career Pathways.

Stakeholder Alignment, Coordination and Engagement Process; Vision; Goals

The State Workforce Development Board, in cooperation with the Department of Labor, and the Agencies of Commerce and Community Development, of Education, of Human Services, of Agriculture, of Natural Resources, and of Transportation, is required to conduct a stakeholder alignment, coordination and engagement process to promote

better coordination around the State's vision and shared goals for meeting Vermont's 21st century workforce education, training, recruitment and retention needs.

CTE and Career Pathways

The Agency of Education, in collaboration with the State Workforce Development Board, is required to implement a process for developing Career Pathways that considers (1) State and local labor market demands, (2) the recommendations of regional career technical education advisory boards or other employer-based boards, (3) alignment with postsecondary education and training opportunities; and (4) students' ability to gain credentials of value, dual enrollment credits, post secondary credentials or degrees, and employment.

Career Readiness

The Agency of Education, in collaboration with the State Workforce Development Board, is required to promote collaboration among middle schools and regional career technical education (CTE) centers to engage in activities including (1) developing and delivering introductory CTE courses to middle school students that are part of broader career education, exploration and development programs and that are connected to Career Pathways and CTE programs, (2) increasing student exposure to local career opportunities through activities such as business tours, guest lectures, career fairs and career awareness days and (3) increasing student exposure to CTE programs through activities such as tours of regional CTE centers, virtual field trips and CTE guest visits.

CTE Pilot Projects

The Agency of Education is required to approve up to four pilot projects in a variety of CTE settings. The pilot projects must propose novel ways of integrating funding for CTE and general education and new governance structures for regional CTE centers, including unified governance structures between regional CTE centers and high schools. Pilot programs must have both high school and regional CTE center involvement. Additionally, pilot projects cannot last longer than two years.

Technical Assistance

The Agency of Education is required to provide technical assistance (1) to schools to help them develop career education, exploration and development, beginning in middle school, and introduce opportunities available through the regional CTE centers, (2) to regional CTE centers help them provide rigorous programs of study to students that are aligned with approved Career Pathways and (3) to local education agencies to ensure that each high school student has the opportunity to experience meaningful work-based learning when included in the student's personalized learning plan.