

No. 58. An act relating to making miscellaneous amendments to education laws.

(S.100)

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

* * * Technical Corrections; Miscellaneous * * *

Sec. 1. 16 V.S.A. § 563(12) is amended to read:

(12) Shall employ such persons as may be required to carry out the work of the school district ~~and dismiss any employee when necessary. The school board shall consider the recommendation of the superintendent before employing or dismissing any person pursuant to the provisions of subdivision 242(3) of this title.~~

Sec. 2. 16 V.S.A. § 1122 is amended to read:

§ 1122. PUPILS OVER ~~SIXTEEN~~ 16

A person having the control of a child over ~~sixteen~~ 16 years of age who allows ~~such~~ the child to become enrolled in a public school, shall cause ~~such~~ the child to attend ~~such~~ the school continually for the full number of the school days of the term in which he or she is ~~so~~ enrolled, unless ~~such~~ the child is mentally or physically unable to continue, or is excused in writing by the superintendent or a majority of the school directors. In case of such enrollment, ~~such~~ the person, and the teacher, child, superintendent, and school directors shall be under the laws and subject to the penalties relating to the attendance of children between the ages of ~~seven~~ six and ~~sixteen~~ 16 years.

Sec. 3. 16 V.S.A. § 1221 is amended to read:

~~§ 1221. CONTROL AND REGULATION~~

~~The board of school directors shall control and regulate the transportation and board of pupils in the schools under its charge as hereinafter provided, and contracts therefor shall be made by it. To transport such pupils properly, the board may purchase, maintain and operate the necessary equipment in the name of the school district pursuant to section 559 of this title.~~

* * * Special Education * * *

Sec. 4. 16 V.S.A. § 2945(a) and (b) are amended to read:

(a) There is created an advisory council on special education ~~which~~ that shall consist of 17 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 of the members shall be appointed by the governor with the advice of the commissioner of education. Among the gubernatorial appointees shall be:

(A) ~~teachers of children with disabilities;~~

(B) ~~representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;~~ representatives;

(C) a representative of independent schools;

(D) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities, ~~representatives;~~

(E) a representative from the state juvenile and adult corrections agency, ~~handicapped;~~

(F) individuals, ~~with disabilities;~~

(G) parents of children with disabilities, provided the child shall be younger than 26 years old at the time his or her parent is appointed to the council;

(H) state and local education ~~administrators~~ officials, including officials who carry out activities under the McKinney-Vento Homeless Assistance Act;

(I) a representative of higher education who prepares special education and related services personnel;

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

(K) special education ~~program~~ administrators. ~~A majority of the members must be either individuals with disabilities or parents of children with disabilities.~~

(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 ~~shall be appointed by the speaker,~~ and the ~~committee on committees shall appoint the~~ senate member ~~shall be appointed by the committee on committees.~~ All members of the council shall serve for a term of three years, beginning from April 1 of the year of appointment or until their successors are appointed. For the purpose of implementing this section, the governor shall make initial appointments as follows: ~~Approximately one third of the members shall be appointed to one-year terms, one third to two year terms, and one third to three year terms. As the terms expire, the new appointees shall be appointed to fill three year terms.~~

(b) The council shall elect its own ~~chairman~~ chair from among its membership. The council shall meet annually at the call of the ~~chairman~~ chair, and other meetings may be called by the ~~chairman~~ chair at such times and places as he or she may determine to be necessary.

Sec. 5. 16 V.S.A. § 2967(b) is amended to read:

(b) The total expenditures made by the state in any fiscal year pursuant to this chapter shall be 60 percent of the statewide total special education expenditures of funds ~~which~~ that are not derived from federal sources. Special education expenditures shall include:

(1) costs eligible for grants and reimbursements under sections 2961 through 2963a of this title;

(2) costs for services for the visually ~~handicapped~~ impaired and hearing impaired;

(3) costs for the interdisciplinary team program;

(4) costs for regional ~~multi-handicapped~~ specialists in multiple disabilities;

(5) funds expended for training and programs to meet the needs of students with emotional behavioral problems under subsection 2969(c) of this title; and

(6) funds expended for training under subsection 2969(d) of this title.

Sec. 6. 16 V.S.A. § 4014(d) is amended to read:

(d) The commissioner shall evaluate proposals based on the following criteria:

(1) The program will serve additional children with special needs, such as those who are economically disadvantaged, those who have limited English language skills, those with ~~handicapping~~ disabling conditions or those who have suffered from or are at risk of, abuse or neglect.

* * *

(8) The program enables children with ~~handicapping~~ disabling conditions to be served in settings with ~~their nonhandicapped~~ peers who do not have a disability.

(9) The program includes voluntary training for parents.

* * * Data Corrections * * *

Sec. 7. 16 V.S.A. § 4030 is amended to read:

§ 4030. DATA SUBMISSION; CORRECTIONS

(a) Upon discovering an error or change in data submitted to the commissioner for the purpose of determining payments to or from the education fund, a school district shall report the error or change to the commissioner as soon as possible. Any budget deficit or surplus due to the error or change shall be carried forward to the following year.

(b) The commissioner shall use data submitted on or before January 15 prior to the fiscal year which begins the following July 1, in order to calculate the amounts due each school district for any fiscal year for the following:

- (1) ~~the adjusted education payments due under section 4011 of this title;~~
- (2) transportation aid due under ~~Sec. 98 of Act No. 71 of 1998~~ section 4016 of this title; and
- (3)(2) the small school support grant due under section 4015 of this title.

(c) The commissioner shall use data corrections regarding local education budget amounts submitted on or before June 15 prior to the fiscal year which begins the following July 1, in order to calculate the ~~amounts due each school district~~ education payments due under section ~~4027~~ 4011 of this title.

However, the commissioner may use data submitted after June 15 and prior to

July 15 due to unusual or exceptional circumstances as determined by the commissioner.

(d) The commissioner shall not use data corrected due to an error submitted following the deadlines to recalculate the equalized pupil ratio under subdivision 4001(3) of this title. The commissioner shall not adjust ~~payments to or from the education fund~~ average daily membership counts if an error or change is reported more than three fiscal years following the date that the original data was due. ~~Adjustments to payments to or from the education fund under this section shall be made on the earliest date possible after the fiscal year in which the error was reported, and in accordance with the schedules set forth in subsection 4028(a) of this title and section 5402 of Title 32, and after the necessary appropriation by the general assembly.~~

(e) The board may adopt rules as necessary to implement the provisions of this section.

* * * Agency of Human Services * * *

Sec. 8. 16 V.S.A. § 212(13) is amended to read:

(13) Ensure the provision of services to children and adolescents with a severe emotional disturbance in coordination with the ~~departments of mental health and mental retardation and social and rehabilitation services in accordance with the provisions of chapter 2 of Title 3~~ department of mental health, the department for children and families, and the department of

disabilities, aging, and independent living pursuant to the provisions of chapter 43 of Title 33.

Sec. 9. 16 V.S.A. § 910 is amended to read:

§ 910. COORDINATION OF SERVICES TO CHILDREN AND

ADOLESCENTS WITH A SEVERE EMOTIONAL DISTURBANCE

Each town, city, interstate, incorporated, unified, or union school district shall cooperate with the ~~departments of mental health and mental retardation, social and rehabilitation services~~ department of mental health, the department for children and families, the department of disabilities, aging, and independent living, and the department of education in coordinating educational services to children and adolescents with a severe emotional disturbance, ~~in accordance with the provisions of chapter 2 of Title 3~~ pursuant to the provisions of chapter 43 of Title 33.

Sec. 10. 16 V.S.A. § 1075(i) is amended to read:

(i) The commissioner ~~of social and rehabilitation services~~ for children and families shall continue to provide social services and financial support in accordance with ~~16 V.S.A. § section~~ section 2950 of this title on behalf of individuals under his or her care and custody while in a residential placement, until they reach their ~~nineteenth~~ 19th birthday.

Sec. 11. 16 V.S.A. § 1166(b)(1) is amended to read:

(1) A provision that any student who brings a firearm to or possesses a firearm at school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the department ~~of social and rehabilitation services~~ for children and families.

Sec. 12. 16 V.S.A. § 2845 is amended to read:

§ 2845. TRUST FUND; GRANTS; STUDENTS IN ~~SRS~~ DCF CUSTODY

(a) The board shall establish a trust fund to be used to provide grants for students who do not have parental support and are or have been under the custody of the commissioner ~~of social and rehabilitation services~~ for children and families. The board may draw up to 90 percent of the assets in the fund for these purposes.

* * *

(e) A child who is under the custody of the commissioner ~~of social and rehabilitation services~~ for children and families, or a young adult between the ages of 18 and 24 who was under the custody of the commissioner ~~of social and rehabilitation services~~ for children and families for at least six months when that person was between the ages of 16 and 18, and who is accepted for degree study at the Vermont state colleges, the University of Vermont, or a Vermont independent college, is eligible for an annual grant under this section,

to the extent that funds are available in the trust fund. Upon certification by the Vermont state colleges, the University of Vermont, or a Vermont independent college that a Vermont resident student who is eligible under this section has matriculated in a degree program at a Vermont college or university, the student may receive a grant if the student's financial aid eligibility leaves remaining financial need following the student and the family contributions, if any, and the availability of all other sources of gift aid. Each grant, together with the student and the family contributions, if any, and all other sources of gift aid, shall not exceed the full cost of tuition, fees, room and board, and no individual annual grant may exceed \$3,000.00. The board may prorate the funds appropriated for use under this section where the collective need of the eligible applicants exceeds the funds appropriated. In addition, the board may prorate a grant based on a student's full- or part-time enrollment status.

* * *

(g) The board shall coordinate implementation of this section with the commissioner of ~~social and rehabilitation services~~ for children and families, the president of the association of Vermont independent colleges, the chancellor of the Vermont state colleges, and the president of the University of Vermont. The board may establish procedures and policies or adopt rules to implement this section.

Sec. 13. 16 V.S.A. § 2943 is amended to read:

§ 2943. COMMISSIONER OF EDUCATION FOR CHILDREN WITH
DISABILITIES; POWERS

The commissioner of education, by virtue of ~~his~~ the office, shall be commissioner of education for children with disabilities; and, ~~as such commissioner~~ shall superintend all matters relating to the essential early education and special education of children with disabilities, ~~and~~. In addition, the commissioner, in coordination with the departments of mental health and mental retardation and social and rehabilitation services department of mental health, the department of disabilities, aging, and independent living, and the department for children and families, shall ensure that appropriate educational services are provided to children and adolescents with a severe emotional disturbance in accordance with the provisions of chapter 43 of Title 33 and may accept gifts, grants, or other donations to carry out the purpose of this chapter.

Sec. 14. 16 V.S.A. § 2948(f) is amended to read:

(f) If a student is being provided education or special education or both in a school operated by the department of corrections ~~or the department of mental health and mental retardation~~, the ~~agency~~ department of corrections shall serve the student as if the ~~agency~~ department were the school district of residence of the student.

Sec. 15. 16 V.S.A. § 2948(n) is amended to read:

(n) If a student is being provided education or special education, or both in a school operated by the department ~~of social and rehabilitation services for children and families~~, the funding and provision of services shall be the responsibility of the department ~~of social and rehabilitation services for children and families~~ and special education procedural responsibility shall be the responsibility of the district of residence of the student's parent, parents, or guardian.

Sec. 16. 16 V.S.A. § 2950(b) is amended to read:

(b) Residential payments.

(1) For a student in the care and custody of the commissioner ~~of social and rehabilitation services for children and families~~ who is placed in a 24-hour residential facility within or outside Vermont, the commissioner of education shall pay the education costs, and the commissioner ~~of social and rehabilitation services for children and families~~ shall arrange for the payment of the remainder of the costs. However, ~~where~~ if the state interagency team, as defined in ~~section 33 V.S.A. § 4302 of Title 33, has found~~ finds such placement inappropriate for the student's education needs, then the commissioner of education shall pay none of the education costs of the placement and the commissioner ~~of social and rehabilitation services for~~

children and families shall arrange for the payment of the full cost of the placement.

(2) For a student who is placed in a 24-hour residential facility within or outside Vermont by a Vermont licensed child placement agency, a designated community mental health agency, any other agency as defined by the commissioner of education, or a Vermont state agency or department other than the department of corrections or the department ~~of social and rehabilitation services~~ for children and families, the commissioner of education shall pay the education costs and the agency or department in whose care the student is placed shall arrange for the payment of the remainder of the costs. However, ~~where~~ if the state interagency team, as defined in ~~section 33 V.S.A. § 4302 of Title 33, has found~~ finds such placement inappropriate for the student's education needs, then the commissioner of education shall pay none of the education costs of the placement and the agency or department in whose care the student is placed shall arrange for payment of the full cost of the placement. This subdivision does not apply to a student for whom a residential placement is:

- (A) specified in the student's individualized education program; and
- (B) funded in collaboration with another agency.

Sec. 17. 16 V.S.A. § 4001(8) is amended to read:

(8) “Poverty ratio” means the number of persons in the school district who are aged six through 17 and who are from economically deprived backgrounds, divided by the long-term membership of the school district. A person from an economically deprived background means a person who resides with a family unit receiving ~~Food Stamps~~ nutrition benefits. A person who does not reside with a family unit receiving ~~Food Stamps~~ nutrition benefits but for whom English is not the primary language shall also be counted in the numerator of the ratio. The commissioner shall use a method of measuring the ~~Food Stamps~~ nutrition benefits population which produces data reasonably representative of long-term trends. Persons for whom English is not the primary language shall be identified pursuant to subsection 4010(e) of this title.

* * * Supervisory Union Duties; Transportation Employees;

Transitional Language * * *

Sec. 18. Sec. 18 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 18. TRANSITION

Each supervisory union shall provide for any transition of employment of special education and transportation staff by member districts to employment

by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6) and (8)(E), by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees and their transportation employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) containing an agreement with the recognized representatives of the employees of the member districts that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees and with its transportation employees, will address issues of seniority, reduction in force, layoff, and recall.

* * * Postsecondary Approval; Fees * * *

Sec. 19. 16 V.S.A. § 176 is amended to read:

§ 176. POSTSECONDARY SCHOOLS CHARTERED IN VERMONT

(a) Applicability. ~~All postsecondary schools whose primary operation is in the state of Vermont are~~ Except as provided in subsection (d) of this section, any postsecondary school that operates primarily or exclusively in the state of Vermont is subject to this section.

(b) Definitions. As used in this section:

(1) “Postsecondary school” means any person who offers or operates a program of college or professional education for credit or a degree and enrolls or intends to enroll students.

(2) ~~“Offer” means, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person in this state, directly or indirectly, in any form, to perform the act described. “Offer” includes the use in the name of an institution or in its promotional material, of a term such as “college,” “university,” or “institute” which that is intended to indicate that the business it is an institution which that offers postsecondary education.~~

(3) “Degree” means any award ~~which that~~ is given by a postsecondary school for completion of a program or course and ~~which that~~ is designated by the term degree, associate, bachelor, baccalaureate, masters, or doctorate, or any similar award ~~which that~~ the state board includes by rule.

(4) “Operate” means to establish, keep, or maintain any facility or location from or through which education is offered or given, or educational degrees are offered or granted. The term includes contracting with any person to perform any such act.

(5) “Accredited” means accredited by any regional ~~or~~ national, or programmatic institutional accrediting agency recognized by the ~~state board~~ U.S. Department of Education.

(c) State board approval.

(1) Every postsecondary school ~~which~~ that is subject to this section shall:

(A) apply for a certificate of approval from state board prior to registering its name with the secretary of state pursuant to Title 11, Title 11A, or Title 11B;

(B) apply for and receive a certificate of approval from the state board prior to offering postsecondary credit-bearing courses or programs and prior to admitting the first student; and

(C) ~~notify~~ provide written notification to each applicant for admission or enrollment ~~in writing~~, on an application, enrollment, or registration form to be signed by the applicant, that credits earned at the school are transferable at the discretion of the receiving school.

(2) Every postsecondary school shall secure a certificate of degree-granting authority from the state board before it confers or offers to confer a degree.

(d) Exemptions. The following are exempt from ~~all~~ the requirements of this section except for the requirements of subdivision (c)(1)(C) of this section:

(1) Programs of education sponsored by a ~~bona-fide~~ trade, labor, business, or professional organization ~~recognized by the state board if they are:~~

~~(A) that are~~ conducted solely for that organization's membership or for members of the particular industries or professions served by that organization; ~~and~~

~~(B) not available to the public on a fee basis.~~

(2) The University of Vermont and the Vermont State Colleges.

(3) Postsecondary schools currently licensed or approved by a Vermont state occupational licensing board.

(4) Postsecondary schools ~~which~~ that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status, and are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate: Bennington College, Burlington College, Champlain College, College of St. Joseph, Goddard College, Green Mountain College, Landmark College, Marlboro College, Middlebury College, New England Culinary Institute, Norwich

University, Saint Michael's College, SIT, Southern Vermont College, Sterling College, Vermont College of Fine Arts, and Vermont Law School. This authorization is provided solely to the extent necessary to ensure institutional compliance with federal financial aid-related regulations, and it does not affect, rescind, or supersede any preexisting authorizations, charters, or other forms of recognition or authorization.

(5) Nondegree-granting and noncredit-granting postsecondary schools ~~which~~ that offer only training in ~~the~~ specific trades or vocations.

(6) Religious instruction ~~which~~ that does not result in earning credits or a degree.

(e) Issuance. On proper application, the state board shall issue a certificate of approval or a certificate of degree-granting authority, or both, to an applicant whose goals, objectives, programs, and resources, including personnel, curriculum, finances, and facilities, are found by the state board to be adequate and appropriate for the stated purpose and for the protection of students and the public interest. ~~In the case of a course or program offered by correspondence, the applicant shall provide proof of application for a license pursuant to chapter 85 of this title.~~ The certificate shall be for a term not exceeding five years. The certificate may be subject to conditions, terms, or limitations.

* * *

Sec. 20. 16 V.S.A. § 176a is amended to read:

§ 176a. POSTSECONDARY SCHOOLS NOT CHARTERED IN
VERMONT

(a) Applicability. ~~All~~ Except as provided in subsection (e) of this section, a postsecondary school whose primary operation lies school that operates primarily outside the state of Vermont ~~are~~, offers or operates a program of college or professional education for credit or a degree, and wishes to operate in Vermont is subject to this section and to subsections 176(g) through (l) of this title.

(b) Definitions. All words and phrases defined in section 176 of this title shall have the same meanings in this section.

(c) ~~State board approval. Every~~ Requirements. A postsecondary school subject to this section shall:

(1) ~~apply for a certificate of approval from the state board prior to registering~~ register its name with the secretary of state pursuant to Title 11, Title 11A, or Title 11B;

(2) secure accreditation by any regional, national, or programmatic institutional accrediting agency recognized by the U.S. Department of Education;

(3) apply for and receive a certificate of approval or a certificate of degree-granting authority or both pursuant to subsection 176(e) of this title

prior to offering postsecondary credit-bearing courses or programs ~~and prior to~~,
admitting the first student;

~~(3) secure a certificate of degree granting authority from the state board
before it confers or offers to confer, or conferring or offering to confer a degree
to a student enrolled in its Vermont school;~~

(4) meet any requirements for approval in its state of primary operation
for the specific degree or credit-bearing course or program that it intends to
offer in Vermont ~~as a condition of approval to operate in Vermont;~~

(5) register with the department of education pursuant to state board
rule; and

(6) provide written notification to each applicant for admission or
enrollment, on an application, enrollment, or registration form to be signed by
the applicant, that credits earned at the school are transferable at the discretion
of the receiving school.

(d) Renewal. After receiving initial approval, a postsecondary school
subject to this section shall register annually with the state board of education
by providing evidence of accreditation and approval by the state in which it
primarily operates and any other documentation the board requires. The state
board may refuse or revoke registration at any time for good cause.

(e) Exemptions. The following are exempt from ~~all the requirements of this section except for the requirements of subdivision (e)(2) of this section~~ the provisions of this section:

(1) Programs of education sponsored by a ~~bona fide~~ trade, labor, business, or professional organization ~~recognized by the state board if they~~ that are:

~~(A)~~ conducted solely for that organization's membership or for members of the particular industries or professions served by that organization; ~~and~~

~~(B) not available to the public on a fee basis.~~

(2) Postsecondary schools currently licensed or approved by a Vermont occupational licensing board.

(3) Nondegree-granting or noncredit-granting postsecondary schools ~~which~~ that offer only training in ~~the~~ specific trades or vocations.

(4) Religious instruction ~~which~~ that does not result in earning credits or a degree.

(5) Programs of education offered solely via correspondence, the Internet, or electronic media, provided that the postsecondary school has no physical presence in Vermont. Evidence of a "physical presence" includes the existence of administrative offices, seminars conducted by a person who is

physically present at the seminar location, the provision of direct services to students, and required physical gatherings.

~~(e) Other provisions:~~

~~(1) All provisions of subsections (e) through (1) of 16 V.S.A. § 176 shall apply to all postsecondary schools subject to this section.~~

~~(2) All postsecondary schools subject to this section shall notify each applicant for enrollment in writing, on an application, enrollment, or registration form to be signed by the applicant, that credits earned at the school are transferable only at the discretion of the receiving school.~~

Sec. 21. 16 V.S.A. § 177 is amended to read:

§ 177. ~~COSTS OF APPROVAL~~ POSTSECONDARY APPROVAL; FEES

~~(a) Fees for certification of postsecondary schools shall be \$2,000.00, except that certification for degree-granting schools shall be \$2,500.00~~

A postsecondary school subject to section 176 of this title shall pay:

(1) a fee of \$4,000.00 for an application for approval to offer credit-bearing courses;

(2) a fee of \$5,000.00 for an application for degree-granting authority if the postsecondary school is approved to offer credit-bearing courses; and

(3) a fee of \$7,500.00 if the school seeks approval under subdivisions (1) and (2) of this subsection simultaneously.

(b) ~~Fees for~~ If a postsecondary school that is subject to section 176 of this title seeking and is operating within an unexpired certification period files an application to offer a new degree at the same level as a degree previously approved by the state board, while operating within a certification period previously granted by the state board, then the fee shall be based upon the actual costs to the department but shall not be less than \$1,000.00 for each new degree.

(c) A postsecondary school subject to section 176a of this title shall pay:

(1) the fees set forth in subsection (a) of this section for initial review and approval pursuant to subdivision 176a(c)(3) of this title;

(2) a fee of \$1,000.00 for initial registration with the department pursuant to subdivision 176a(c)(5) of this title; and

(3) an annual fee of \$500.00 to renew its registration to operate in Vermont pursuant to subsection 176a(d) of this title.

(d) Fees assessed under this section are not refundable.

(e) ~~These fees~~ Fees assessed under this section shall be credited to a special fund established and managed pursuant to chapter 7, subchapter 5 of Title 32, and shall be available to the department to offset the costs of approvals approval.

* * * School Food Services * * *

Sec. 22. 16 V.S.A. chapter 27, subchapter 2 is amended to read:

Subchapter 2. School Lunches

§ 1261a. DEFINITIONS

For the purposes of this subchapter:

(1) “Food programs” means provisions of food to persons under programs meeting standards for assistance under the National School Lunch Act, 42 U.S.C. § 1751 et seq., and any amendment thereto, and in the Child Nutrition Act, 42 U.S.C. § 1779 et seq., and any amendments thereto.

(2) “School board” means the governing body responsible for the administration of a public school, ~~or~~.

(3) “Independent school board” means a governing body responsible for the administration of a nonprofit independent school exempt from United States income taxes.

§ 1262a. AWARD OF GRANTS

(a)(1) The state board of education may, from funds appropriated for this subsection to the department of education, award grants to:

(A) supervisory unions for the use of member school boards which that establish and operate food programs, ~~provided the;~~

(B) independent school boards that establish and operate food programs; and

(C) approved education programs, as defined in subdivision 11(a)(34) of this title and operating under private nonprofit ownership as defined in the National School Lunch Act, that establish and operate food programs for students engaged in a teen parent education program or students enrolled in a Vermont public school.

(2) The amount of any grant awarded under this subsection shall not be more than the amount necessary, in addition to the charge made for the meal and any reimbursement from federal funds, to pay the actual cost of the meal.

(b) The state board may, from funds available to the department of education for this subsection, award grants to supervisory unions consisting of one or more school districts ~~which that~~ need to initiate or expand food programs in order to meet the requirements of section 1264 of this title and ~~which that~~ seek assistance in meeting the cost of initiation or expansion. The amount of the grants shall be limited to ~~seventy-five~~ 75 percent of the cost deemed necessary by the commissioner to construct, renovate or acquire additional facilities and equipment to provide lunches to all pupils, and shall be reduced by the amount of funds available from federal or other sources, including those funds available under section 3448 of this title. The state board, upon recommendation of the commissioner, shall direct ~~school districts~~ supervisory unions seeking grants under this section to share facilities and equipment within the supervisory union and with other supervisory unions for

the provision of lunches wherever more efficient and effective operation of food programs can be expected to result.

(c) On a quarterly basis, from state funds appropriated to the department of education for this subsection, the state board shall award to each ~~school district~~ supervisory union, independent school board, and approved education program as described in subsection (a) of this section a sum equal to the amount that would have been the student share of the cost of all breakfasts actually provided in the district during the previous quarter to students eligible for a reduced price breakfast under the federal school breakfast program.

§ 1262b. REGULATIONS

The state board of education shall adopt regulations governing grants under section 1262a of this title. Such regulations shall provide for grants ~~to local school programs~~ from state funds in accordance with guidelines of food programs as defined under federal law. The state board of education may adopt such other rules and regulations as are necessary to carry out the provisions of this subchapter.

§ 1264. FOOD PROGRAM

(a)(1) Each school board operating a public school shall cause to operate within the school district a food program that makes available a school lunch, as provided in the National School Lunch Act as amended, and a school

breakfast, as provided in the National Child Nutrition Act as amended, to each attending pupil every school day.

(2) Each school board operating a public school shall offer a summer snack or meals program funded by the Summer Food Service program or the National School Lunch Program for participants in a summer educational or recreational program or camp if:

(A) At least 50 percent of the students in a school in the district were eligible for free or reduced-price meals under subdivision (1) of this subsection for at least one month in the preceding academic year;

(B) The district operates or funds the summer educational or recreational program or camp; and

(C) The summer educational or recreational program or camp is offered 15 or more hours per week.

(b) In the event of an emergency, the school board may apply to the department for a temporary waiver of the requirements in subsection (a) of this section. The commissioner shall grant the requested waiver if he or she finds that it is unduly difficult for the school district to provide a school lunch, breakfast, or summer meals program, or any combination of the three, and if he or she finds that the school district ~~has~~ and supervisory union have exercised due diligence ~~in its efforts~~ to avoid the emergency situation that gives rise to the need for the requested waiver. In no event shall the waiver extend for a

period to exceed 20 school days or, in the case of a summer meals program, the remainder of the summer vacation.

(c) The state shall be responsible for the student share of the cost of breakfasts provided to all students eligible for a reduced price breakfast under the federal school breakfast program.

§ 1265. EXEMPTION; PUBLIC DISCUSSION

(a) The school board of a public school district ~~which~~ that wishes to be exempt from the provisions of section 1264 of this title may vote at a meeting warned and held for that purpose to exempt itself from the requirement to ~~operate~~ offer either the school lunch program or the school breakfast program, or both, for a period of one year.

(b) If a public school ~~board~~ is exempt from ~~operating~~ offering a breakfast or lunch program, ~~annually it~~ its school board shall conduct a discussion annually on whether to continue the exemption. The pending discussion shall be included on the agenda at a regular or special school board meeting publicly noticed in accordance with ~~subsection 1~~ V.S.A. § 312(c) ~~of Title 1,~~ and citizens shall be provided an opportunity to participate in the discussion. The school board shall send a copy of the notice to the commissioner and to the superintendent of the supervisory union at least ten days prior to the meeting. Following the discussion, the school board shall vote on whether to continue the exemption for one additional year.

(c) On or before the first day of November 1, previous prior to the date on which an exemption voted under this section is due to expire, the commissioner shall notify the ~~school board~~ boards of the affected school district and supervisory union in writing that the exemption will expire.

(d) Following a meeting held pursuant to subsection (b) of this section, the school board shall send a copy of the agenda and minutes to the commissioner and the superintendent of the supervisory union.

(e) The commissioner may grant a supervisory union or a school district a waiver from duties required of it under this subchapter upon a demonstration that the duties would be performed more efficiently and effectively in another manner.

* * * Secondary Credits; Dual Enrollment * * *

Sec. 23. 16 V.S.A. § 913 is added to read:

§ 913. SECONDARY CREDIT; POSTSECONDARY COURSES

(a) Each public school and approved independent school offering secondary education shall award credit toward graduation requirements to a student who receives prior approval from the school and successfully completes a course offered by an accredited postsecondary institution. The secondary school shall determine the number and nature of credits it will award to the student for successful completion of the course, including whether the course will satisfy one or more requirements of the school, and shall inform

the student prior to enrollment. Credits awarded shall be based on performance and not solely on Carnegie units; provided, however, that unless the school determines otherwise, a three-credit postsecondary course shall be presumed to equal one-half of a Carnegie unit. A school shall not withhold approval or credit without reasonable justification. A student may request that the superintendent review the school's determination regarding course approval or credits. The superintendent's decision shall be final.

(b) For purposes of this section:

(1) "Accredited postsecondary institution" means a postsecondary institution that has been accredited by the New England Association of Schools and Colleges or a similar national or regional accrediting agency recognized by the U.S. Department of Education.

(2) "Carnegie unit" means a time-based unit of measuring secondary student attainment under which one unit equals 50 minutes of class time if the class is taken five days per week for 30 weeks.

Sec. 24. EXPANDED LEARNING OPPORTUNITIES; DUAL

ENROLLMENT; POLICY

(a) It is the policy of the state of Vermont to:

(1) encourage increased access to expanded learning opportunities for publicly funded students enrolled in public and approved independent

secondary schools, including dual enrollment, flexible learning pathways, and personalized learning;

(2) encourage increased dual enrollment opportunities for a wide range of students, particularly those from groups who attend college at disproportionately low rates, which will contribute to the statewide intent to increase the rigor of high school coursework, improve high school graduation rates, raise postsecondary aspiration rates, and better prepare more secondary students for the transition to college and career;

(3) encourage increased opportunities for secondary students to enroll in dual enrollment courses and earn both transcribed high school credit and transcribed postsecondary credit for successful completion of the course;

(4) recognize that instructors for dual enrollment courses are selected by the postsecondary institution and may include qualified high school faculty;

(5) recognize that dual enrollment courses may be taught at the secondary school, on the postsecondary campus, or by means of electronic or other distance media; and

(6) encourage collaborative partnerships among the New England states to create sustainable strategies to close the achievement gap among students.

(b) For purposes of this section, “dual enrollment” means enrollment by a secondary student in a course offered by an accredited postsecondary

institution as defined in 16 V.S.A. § 913 and for which, upon successful completion of the course, the student will receive:

(1) credit toward graduation from the secondary school in which the student is enrolled; and

(2) postsecondary credit from the institution that offered the course if the course is a credit-bearing course at that institution.

* * * Reports * * *

Sec. 25. DRIVER EDUCATION; RESTRUCTURING

(a) The department of education, in consultation with the department of motor vehicles, the Vermont Driver and Traffic Safety Education Association, the Vermont Superintendents Association, and other interested entities, shall explore options for restructuring the delivery of driver education to Vermonters between the ages of 15 and 20, including consideration of:

(1) the development, implementation, evaluation, and enforcement of standards for teen driver education programs and instructors;

(2) the development and public dissemination of information regarding teen driver education issues;

(3) the creation of an advisory board to oversee all teen driver education programs, program instructors, and public communication efforts; and

(4) available funding sources for driver education programs and advisory board responsibilities.

(b) On or before January 15, 2012, the department shall present a detailed restructuring proposal to the house and senate committees on education and on transportation.

Sec. 26. TECHNOLOGY IN SCHOOLS; REPORT

On or before January 15, 2012, the department of education shall report to the senate and house committees on education regarding the current and planned use of technology and Internet service in public schools designed to increase educational opportunities for students, including:

(1) each school's type of Internet service, speed of connection, service provider, and projected upgrades available or planned before July 1, 2015;

(2) efforts to increase the availability of individual learning opportunities, dual enrollment, online, and other alternative learning programs;

(3) expansion of flexible learning environments, including efforts to develop and increase opportunities with out-of-state providers;

(4) results of the department's research concerning the possible development of a statewide open document format that could be standardized across the K-12 structure in Vermont, including consideration of tools available, security risk inherent in each, and the viability of state agencies to join efforts to help standardize systems and reduce costs on proprietary software and solutions;

(5) implementation of the department's communication and collaboration tool during the summer of 2011, focusing on uses of the tool by both schools and department staff and addressing incentives and value-added aspects of the tool; and

(6) review by the department and the state board of education of the school quality standards and consideration of amendments focusing on the continued evolution of teaching and learning supported by technology.

Sec. 27. [DELETED]

Sec. 28. EARLY EDUCATION OFFERED BY AND THROUGH PUBLIC
SCHOOLS; REGULATION; REPORT

(a) The departments of education and for children and families, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Principals' Association, the Vermont-National Education Association, the Vermont council of special education administrators, Pre-K Vermont, the Vermont community preschool collaborative, the Vermont Business Roundtable, Kids Are Priority One Coalition, the Building Bright Futures Council, and other interested entities, shall review the statutes and rules regarding prekindergarten education programs offered by and through school districts and supervisory unions and shall determine ways in which the regulation of these programs can be simplified.

(b) On or before January 15, 2012, the departments shall report jointly to the senate and house committees on education detailing their proposal for simplified regulations and identifying all statutory amendments necessary to implement the proposal.

* * * Elementary School Tuition Inconsistencies * * *

Sec. 29. 16 V.S.A. § 821(d) is amended to read:

(d) Notwithstanding subsection (a) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary 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; ~~provided the board shall pay tuition for the pupil in an amount not to exceed the least of:~~

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

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

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

Sec. 30. 16 V.S.A. § 823(b) is amended to read:

(b) ~~The~~ Unless the electorate of a school district authorizes payment of a higher amount at an annual or special meeting warned for the purpose, the tuition paid to an approved independent elementary school or an independent school meeting school quality standards shall not exceed the lesser least of:

(1) the average announced tuition of Vermont union elementary schools for the year of attendance; ~~or~~

(2) the tuition charged by the approved independent school for the year of attendance; or

(3) the average per-pupil tuition the district pays for its other resident elementary pupils in the year in which the pupil is enrolled in the approved independent school. ~~However, the electorate of a school district may authorize the payment of a higher amount at an annual or special meeting warned for the purpose.~~

* * * Educational Films * * *

Sec. 31. REPEAL

16 V.S.A. § 144a (appropriation for visual educational films) is repealed.

* * * Energy Financing * * *

Sec. 32. 16 V.S.A. § 562 is amended to read:

§ 562. POWERS OF ELECTORATE

At a school district meeting, the electorate:

* * *

(11) ~~Repealed.~~ May grant general authority to the school board, at the request of the board, to incur debt at any time within the subsequent five years to finance the cost of school-building energy improvements not to exceed \$350,000.00 per building in any three-year period and payable over a maximum term coextensive with the useful life of the financed improvements, but not to exceed ten years, provided that the avoided costs attributable to the financed improvements exceed the annual payment of principal and interest of the indebtedness. No indebtedness shall be incurred under this subdivision unless the entity appointed as an energy efficiency utility under 30 V.S.A. § 209(d)(2), an independent licensed engineer, or an independent licensed architect has certified to the district the cost of the improvements to be financed, the avoided costs attributable to the improvements, and the adequacy of debt service coverage from the avoided costs over the term of the proposed indebtedness.

Sec. 33. [Deleted.]

* * * SU Duties; Effective Date Extension * * *

Sec. 34. Sec. 23(b) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(b) Secs. 9 through 12 of this act shall take effect on passage and shall be fully implemented on July 1, ~~2012~~ 2013, subject to the provisions of existing contracts.

* * * Harassment and Bullying;

Electronic and Nonschool Activities * * *

Sec. 35. 16 V.S.A. § 11(a)(26)(A) is amended to read:

(26)(A) “Harassment” means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student’s or a student’s family member’s actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student’s educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

Sec. 36. 16 V.S.A. § 11(a)(32) is amended to read:

(32) “Bullying” means any overt act or combination of acts, including an act conducted by electronic means, directed against a student by another student or group of students and which:

(A) is repeated over time;

(B) is intended to ridicule, humiliate, or intimidate the student; and

(C)(i) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity; or

(ii) does not occur during the school day on school property, on a school bus, or at a school-sponsored activity and can be shown to pose a clear and substantial interference with another student's right to access educational programs.

Sec. 37. 16 V.S.A. § 1162 is amended to read:

§ 1162. SUSPENSION OR EXPULSION OF PUPILS

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with state board rules, suspend a pupil for up to 10 school days or, with the approval of the board of the school district, expel a pupil for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct;

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the pupil harmful to the welfare of the school ~~or for misconduct;~~

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a pupil who brings a weapon to school pursuant to section 1166 of this title.

~~(b)~~(c) Principals, superintendents, and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section.

* * * Food Processing * * *

Sec. 38. CAREER AND TECHNICAL CENTERS; INTEGRATION WITH
FOOD PROCESSING SECTORS

The department of education, in consultation with the agency of agriculture, food and markets, the Vermont association of career and technical center directors, the workforce development council, slaughterhouse operators, meat processors, chefs, and livestock farmers shall integrate the value added food processing sectors, including meat cutting and processing, into the programs of study offered at the state's regional career and technical education centers.

* * * Student Athletes; Concussions * * *

Sec. 39. FINDINGS

The general assembly finds:

- (1) A concussion is a disturbance to brain function that can range from mild to severe and can disrupt the way the brain normally works.
- (2) A concussion is caused by a blow to or motion of the head or body that causes the brain to move rapidly inside the skull.
- (3) A concussion can occur with or without loss of consciousness, but most concussions occur without loss of consciousness.
- (4) The risks of catastrophic injuries or death are significant when a concussion or other head injury is not properly evaluated and managed.
- (5) Concussions can occur during any organized or unorganized sport or recreational activity and can result from a fall or from a person colliding with one or more other people, with the ground, or with other obstacles.
- (6) The Centers for Disease Control and Prevention estimates that as many as 3,900,000 sports-related and recreation-related concussions occur in the United States each year.
- (7) Concussions are one of the most commonly reported injuries in children and adolescents who participate in athletic and recreational activities.

(8) Continuing to participate in athletic and recreational activities with a concussion or symptoms of a head injury causes children and adolescents to be vulnerable to greater injury or even death.

(9) Despite the existence of recognized return-to-play standards for concussions and other head injuries, some children and adolescents in Vermont with a concussion or symptoms of a head injury are prematurely permitted to participate in athletic and recreational activities, resulting in actual or potential physical injury or death.

Sec. 40. 16 V.S.A. chapter 31, subchapter 3 is added to read:

Subchapter 3. Health and Safety Generally

§ 1431. CONCUSSIONS AND OTHER HEAD INJURIES

(a) Definitions. For purposes of this subchapter:

(1) “School athletic team” means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(2) “Coach” means a person who instructs or trains students on a school athletic team.

(3) “Youth athlete” means an elementary or secondary student who is a member of a school athletic team.

(b) Guidelines and other information. The commissioner of education or designee, assisted by members of the Vermont Principals’ Association selected

by that association, shall develop statewide guidelines, forms, and other materials, and update them when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury; and

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the state, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training no less frequently than every two years on how to recognize the symptoms of a concussion or other head injury; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school.

(d) Participation in athletic activity. A coach shall not permit a youth athlete to train or compete with a school athletic team if the athlete has been removed or prohibited from participating in a training session or competition associated with the school athletic team due to symptoms of a concussion or other head injury until the athlete has been examined by and received written permission to participate in athletic activities from a health care provider licensed pursuant to Title 26 and trained in the evaluation and management of concussions and other head injuries.

* * * Effective Date * * *

Sec. 41. EFFECTIVE DATE; IMPLEMENTATION

This act shall take effect on passage, provided that:

(1) Section 3 of this act shall be fully implemented by July 1, 2013, subject to the provisions of existing contracts;

(2) the guidelines, forms, and other materials required by Sec. 40 of this act, 16 V.S.A. § 1431(b), shall be developed and published on the websites of

the Vermont Principals' Association and the department of education no later than July 1, 2011; and

(3) the requirements of Sec. 40 of this act, 16 V.S.A. § 1431(c) (notice and training) and (d) (participation), shall be in effect beginning in the autumn 2011 sports season.

Approved: May 31, 2011