

No. 44. An act relating to making miscellaneous amendments to education law.

(H.427)

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

* * * Cross-References * * *

Sec. 1. 16 V.S.A. § 11(a)(30) is amended to read:

(30) “Hazing” means any act committed by a person, whether individually or in concert with others, against a student in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization which is affiliated with an educational institution; and which is intended to have the effect of, or should reasonably be expected to have the effect of, humiliating, intimidating or demeaning the student or endangering the mental or physical health of a student. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in the above acts. Hazing may occur on or off the campus of an educational institution. Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:

- (1) the goals are approved by the educational institution; and
- (2) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, and normal and customary for similar programs at other educational institutions.

The definitions of ~~educational institution, organization, pledging, and student~~ “educational institution,” “organization,” “pledging,” and “student” shall be the same as those in section ~~151~~ 140a of this title.

* * * Audits and Auditors * * *

Sec. 2. 16 V.S.A. § 261a(10) is amended to read:

(10) submit to the town auditors of each member school district or to the person authorized to perform the duties of an auditor for the school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount ~~of state aid for special education awarded to~~ expended by the supervisory union for special education-related services, including ~~the amount generated by, and the amount allocated to:~~

(A) A breakdown of that figure showing the amount paid by each school district within the supervisory union.

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

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

§ 323. AUDIT BY PUBLIC ACCOUNTANT

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

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

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

Sec. 5. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a) An auditor shall not be town clerk, town treasurer, selectman, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of ~~their~~ official duties be eligible to hold office as auditor. A selectman or school director shall not be first constable, collector of taxes, town treasurer, auditor, or town agent. A selectman shall not be lister. A town manager shall not hold any elective office in the town or town school district. Election officers at local elections shall be disqualified as provided in section 2456 of this title.

(b) Notwithstanding subsection (a) of this section, if a school district prepares and reports its budget independently from the budget of the town and the school district is audited by an independent public accountant, a person shall be eligible to hold office as auditor even if that person's spouse holds office as a school director.

* * * School District Budgets * * *

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

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

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

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

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

“Article #1 (School Budget):

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

Part B. If Part A is approved by the voters, shall the voters of the school district also authorize the school board to expend \$ _____, which is the remainder of the amount the school board has determined to be necessary?”

Sec. 7. EFFECTS ON EXISTING LAW

Nothing in Sec. 6 of this act shall repeal or amend the application of the provisions of Sec. 6 of No. 82 of the Acts of 2007 to 16 V.S.A. § 563(11).

Sec. 8. 16 V.S.A. § 563(11)(C) is amended to read:

(C) At a school district's annual or special meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual meeting. The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show the following information in a format prescribed by the commissioner of education:

(i) all revenues from all sources, and expenses, including as separate items any assessment for ~~a union school district or~~ a supervisory union of which it is a member, and any tuition to be paid to a technical center;

(ii) the specific amount of any deficit incurred in the most recently closed fiscal year and how the deficit was or will be remedied;

(iii) the anticipated homestead tax rate and the percentage of household income used to determine income sensitivity in the district as a result of passage of the budget; including those portions of the tax rate attributable to ~~the union school and~~ supervisory union assessments; and

(iv) ~~in the case of a school district:~~

~~(I) other than a union school district, the definition of “education spending,” the number of pupils and number of equalized pupils in the school district, and the district’s education spending per equalized pupil in the proposed budget and in each of the prior three years; or~~

~~(II) in the case of a union school district, the amount of the assessment to each of the member districts and the amount of the assessments per equalized pupil in the proposed budget and for the past three years.~~

Sec. 9. 16 V.S.A. § 563(10) is amended to read:

(10) Shall prepare and distribute to the electorate, not less than ten days prior to the district’s annual meeting, a report of the conditions and needs of the district school system, including the superintendent’s, supervisory union treasurer’s, and school district treasurer’s annual report for the previous school year, the balance of any reserve funds established pursuant to 24 V.S.A. § 2804, a summary of the town auditor’s report as to fiscal years which are audited by town auditors as required by 24 V.S.A. § 1681, a summary of the public accountant’s report as to fiscal years which are audited by a public accountant, and a notice of the time and place where the full report of the town auditor or the public accountant will be available for inspection and copying at cost. Each town auditor’s and public accountant’s report shall comply with 24 V.S.A. § 1683(a). At a school district’s annual meeting, the electorate may vote to provide notice of availability of the report required by this subdivision to the electorate in lieu of distributing the report. If the electorate of the school

district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual or special meeting.

* * * Union Districts; Consolidation * * *

Sec. 10. 16 V.S.A. § 706f is amended to read:

§ 706f. CONTENTS OF WARNING ON VOTE TO ESTABLISH THE
UNION

The warning for each school district meeting shall contain two articles in substantially the following form:

WARNING

The voters of the town (city, union, etc.) school district of _____ are hereby notified and warned to meet at _____ on the _____ day of _____, _____, to vote by Australian ballot between the hours of _____, at which time the polls will open, and, at which time the polls will close, upon the following articles of business:

Article I

Shall the town (city, union, etc.) school district of _____ which the State Board of Education has found (necessary or advisable) to include in the proposed union school district, join with the school districts of _____ and _____, which the State Board of Education has found necessary to include in the proposed union school district, and the school districts of _____ and _____, which the State Board of Education has found advisable to include in the proposed union school district, for the purpose of forming a union school district, as provided

in Title 16, Vermont Statutes Annotated, upon the following conditions and agreements:

(a) Grades. The union school district shall operate and manage a school offering instruction in grades _____ through _____.

* * *

Sec. 11. 16 V.S.A. § 721a(b) is amended to read:

(b) When a majority of the voters of a school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from a union school district the vote shall be certified by the clerk of the school district to the secretary of state who shall record the certificate in his or her office and give notice of the vote to the commissioner of education and to the other member districts of the union school district. ~~Those~~ Within 90 days after receiving notice, those member districts shall vote by Australian ballot on the same day during the same hours whether to ratify withdrawal of the member district. Withdrawal by a member district shall be effective only if approved by an affirmative vote of each of the other member school districts within the union school district.

Sec. 12. SCHOOL DISTRICT CONSOLIDATION

School districts that have entered into a contract to operate schools jointly pursuant to 16 V.S.A. chapter 11, subchapter 1, shall be eligible through June 30, 2010 for any transition aid that is available under Sec. 168a of No. 122 of the Acts of the 2003 Adj. Sess. (2004) as amended by Sec. 23 of No. 66

of the Acts of 2007 under the same terms and conditions as a union, unified union, or interstate school district.

* * * Tuition; Designation; Maintain School * * *

Sec. 13. 16 V.S.A. chapter 21 is amended to read:

CHAPTER 21. MAINTENANCE OF PUBLIC SCHOOLS

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

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

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

* * *

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

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

(2) if the electorate authorizes the school board to pay tuition to one or more approved independent schools ~~approved by the state board~~ or

independent schools meeting school quality standards, but only if the school district did not operate a kindergarten on September 1, 1984, and has not done so afterward.

(c) Notwithstanding subsection (a) of this section, a school board without previous authorization by the electorate may pay tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there due to geographic considerations. ~~The board's decision shall be final in regard to the institution the pupil may attend.~~ Within 30 days of the board's decision, a parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, who shall have authority to direct the school board to pay all, some, or none of the pupil's tuition and whose decision shall be final.

(d) Notwithstanding subsection (a) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary pupils pupil at an approved independent nonresidential elementary schools school upon request ~~of a notice given by the pupil's parent or legal guardian, if in the board's judgment the pupil's educational interests can be better served there.~~ ~~The board's decision shall be final in regard to the institution the pupil may attend~~

before April 15 for the next academic year; provided the board shall pay tuition for the pupil in an amount not to exceed the least of:

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

(2) The average per-pupil tuition the district pays for its other resident elementary pupils in the year 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.

§ 822. SCHOOL DISTRICTS TO MAINTAIN HIGH SCHOOLS OR PAY
TUITION

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

(1) The electorate authorizes the school board to close an existing high school and to provide for the high school education of its pupils by paying tuition in accordance with law. Tuition for its pupils shall be paid to ~~an~~ approved a public or high school, an approved independent high school, or an independent school meeting school quality standards, to be selected by the parents or guardians of the pupil, within or without the state; or

* * *

(c) The school board may both maintain a high school and furnish high school education by paying tuition to a public school as in the judgment of the board may best serve the interests of the pupils, or to an approved independent school or an independent school meeting school quality standards if the board judges that a pupil has unique educational needs that cannot be served within the district or at a nearby public school. Its judgment shall be final in regard to the institution the pupils may attend at public cost.

§ 823. ELEMENTARY TUITION

* * *

(b) The tuition paid to an approved independent elementary school or an independent school meeting school quality standards shall not exceed the lesser of: (1) the average announced tuition of Vermont union elementary schools for the year of attendance; or (2) the tuition charged by the independent school. However, the electorate of a school district may authorize the payment of a higher amount at an annual or special meeting warned for the purpose.

§ 824. HIGH SCHOOL TUITION

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

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

Vermont functioning as an approved area technical center, or an independent school meeting school quality standards-; provided:

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

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

(c) ~~For students in grades 7-12, the~~ The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for ~~students in grades 7-12 for~~ the year of attendance for its pupils enrolled in an approved independent school not functioning as a Vermont area technical center, or any higher amount approved by the electorate at an annual or special meeting warned for that purpose.

* * *

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

(a) A school board, or the board of trustees of an independent school meeting school quality standards ~~which~~ that proposes to increase tuition charges shall notify the school board of the school district from which its nonresident pupils come, and the commissioner, of the proposed increase on or before ~~February 1~~ January 15 in any year; such increases shall not become effective without the notice and not until the following school year.

* * *

§ 827. DESIGNATION OF A PUBLIC HIGH SCHOOL OR ANAPPROVED INDEPENDENT HIGH SCHOOL AS THE SOLEPUBLIC HIGH SCHOOL OF A SCHOOL DISTRICT

(a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate an approved independent school or a public school as the public high school of the district.

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

(c) A parent or legal guardian who is dissatisfied with the instruction provided at the designated school or who cannot obtain for his or her child the kind of course or instruction desired there, or whose child can be better accommodated in an approved independent or public high school nearer his or her home during the next academic year, may request on or before April 15 that the school board to pay tuition to another approved independent or public high school selected by the parent or guardian.

(d) The school board may pay tuition to another approved high school as requested by the parent or legal guardian if in its judgment that will best serve the interests of the pupil. Its decision shall be final in regard to the institution the pupil may attend. If the board approves the parent's request, the board shall pay tuition for the pupil in an amount not to exceed the least of:

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

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

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

§ 828. TUITION TO APPROVED SCHOOLS, AGE, APPEAL

A school district shall not pay the tuition of a pupil except to a public ~~or~~ school, an approved independent school or, an independent school meeting school quality standards, a tutorial program approved by the state board, an

approved education program, or an independent school in another state or country approved under the laws of that state or country, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

* * *

* * * State-Placed Students * * *

Sec. 14. 16 V.S.A. § 11(a)(28) is amended to read:

(28) “State-placed student” means:

(A) a Vermont pupil who has been placed in a school district other than the district of residence of the pupil’s parent, parents or guardian or in an approved residential facility by a Vermont state agency, a Vermont licensed child placement agency, a designated community mental health agency, or any other agency as defined by the commissioner; or

(B) a Vermont pupil who:

(i) is 18 years of age or older;

(ii) is living in a community residence as a result of placement by a Vermont state agency, a Vermont licensed child placement agency or a designated community mental health agency, and whose residential costs are paid for in whole or in part by one of these agencies; and

(iii) resides in a school district other than the district of the pupil's parent or parents; or

~~(C) a pregnant or postpartum pupil attending school at an approved education program in a residential facility or outside the school district of residence pursuant to subsection 1073(b) of this title~~

(D) A Vermont pupil who:

(i) Is in either:

(I) The legal custody of the commissioner for children and families; or

(II) The temporary legal custody of an individual pursuant to subdivision 5308(b)(3) or (4) of Title 33, until a disposition order has been entered pursuant to section 5318 of that title; and

(ii) Is determined by the commissioner of education to be in particular need of educational continuity by attending a school in a district other than the pupil's current district of residence;

(E) "State-placed student" But does not include pupils mean a pupil placed within a correctional facility or in the Woodside Juvenile Rehabilitation Center or The Eldred School operated by the Vermont State Hospital.

Sec. 15. 16 V.S.A. § 1075(b) and (c) are amended to read:

(b) The commissioner shall determine the legal residence of all state-placed students pursuant to the provisions of this section. In all other cases, the pupil's legal residence shall be determined by the board of school directors of

the district in which the pupil is seeking enrollment or, if the pupil is seeking payment of tuition, the board of directors from which the pupil is seeking tuition payment. If a pupil is denied enrollment at any stage, the pupil and his or her parent or guardian shall be notified in writing, within 24 hours, of the provisions of this section. If the pupil is not in attendance as a result of a preliminary decision by school officials and a decision from the board of school directors will not be available by the end of the second school day after the request for enrollment is made, the commissioner may issue a temporary order requiring enrollment. Any interested person or taxpayer who is dissatisfied with the decision of the board as to the pupil's legal residence may appeal to the commissioner of education, who shall determine the pupil's legal residence, and the decision of the commissioner shall be final. Pending appeal under this subsection, the commissioner shall issue a temporary order requiring enrollment.

(c) State-placed students.

(1) A state-placed student, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the pupil is living, unless an alternative plan or facility for the education of the pupil is agreed upon by the commissioner of education. In the case of a dispute as to where a state-placed student is living, the commissioner shall conduct a hearing to determine which school district is

responsible for educating the pupil. The commissioner's decision shall be final.

(2) If a pupil is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the department for children and families shall assume responsibility for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A pupil who is in temporary legal custody pursuant to subdivision 5308(b)(3) or (4) of Title 33 and is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the pupil's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the pupil's legal guardian resides, or the district in which the temporary legal custodian resides. If the pupil enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(4) If a pupil who had been a state-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the pupil's parents or legal guardians reside, then, at the request of the pupil's parent or legal guardian, the commissioner of education may order

the pupil to continue his or her enrollment for the remainder of the academic year in the district in which the pupil resided prior to returning to the parent's or guardian's district and the pupil will continue to be funded as a state-placed student. Unless the receiving district chooses to provide transportation:

(A) If the pupil remains in the legal custody of the commissioner for children and families, then the department for children and families shall assume responsibility for the pupil's transportation to and from school.

(B) In all other instances under this subdivision (4), the parent or legal guardian is responsible for the pupil's transportation.

* * * Base Education Payment; Base Education Amount * * *

Sec. 16. 16 V.S.A. § 4001(13) is amended to read:

(13) "Base education ~~payment~~ amount" means a number used to calculate tax rates. The base education amount is \$6,800.00 per equalized pupil, adjusted as required under section 4011 of this title.

Sec. 17. 16 V.S.A. § 4011 is amended to read:

§ 4011. EDUCATION PAYMENTS

(a) Annually, the general assembly shall appropriate funds to pay for statewide education spending and a portion of a base education ~~payment~~ amount for each adult diploma student.

(b) For each fiscal year, the base education ~~payment~~ amount shall be \$6,800.00, increased by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government

purchases of goods and services from fiscal year 2005 through the fiscal year, for which the ~~payment~~ amount is being determined, plus an additional one-tenth of one percent.

* * *

(e) The commissioner shall pay an amount equal to 87 percent of the base education ~~payment~~ amount to the Vermont Academy of Science and Technology for each Vermont resident, 12th grade student enrolled.

(f) Annually, the commissioner shall pay to a department or agency which provides an adult diploma program, an amount equal to 26 percent of the base education ~~payment~~ amount for each student who completed the diagnostic portion of the program, based on an average of the previous two years.

(g) The commissioner shall pay to a school district a percentage of the base education ~~payment~~ amount for each resident student for whom the district is paying a technical tuition to a regional technical center but who is not enrolled in the district and therefore not counted in the average daily membership of the district. The percentage of the base education ~~payment~~ amount to be paid shall be the percentage of the student's full-time equivalent attendance at technical center multiplied by 87 percent.

* * *

Sec. 18. 16 V.S.A. § 1561 is amended to read:

§ 1561. TUITION REDUCTION

* * *

(b) On behalf of a sending school district within Vermont, a technical center shall receive from the education fund for each full-time equivalent student from the district 87 percent of the base education ~~payment~~ amount and an equivalent amount shall be subtracted from the amount due to the sending district under section 4011 of this title. The amount sent to the technical center and subtracted from the sending district shall be considered a revenue and an expenditure of the district and shall be reported as such in appropriate accounts and in the district's annual budget.

(c) Annually, the general assembly shall appropriate funds to pay for a supplemental assistance grant per full-time equivalent student. The amount of the grant shall be equal to 35 percent of the base education ~~payment~~ amount for that year.

(d) In any year following a year in which fall semester full-time equivalent enrollment of students at a technical center increased by 20 percent or more over the previous fall semester, in addition to other aid, the technical center shall receive an extra supplemental assistance grant equal to two-thirds of the 35 percent of the base education ~~payment~~ amount for that year, multiplied by the actual full-time equivalent enrollment increase. The next year, if the increase in fall semester full-time equivalent enrollment is less than 20 percent, in addition to other aid, the technical center shall receive an extra supplemental assistance grant equal to one-third of the 35 percent of the base education

~~payment~~ amount for the year multiplied by the actual full-time equivalent increase of the previous fall semester.

Sec. 19. CONSISTENT USE OF TERM

Pursuant to its statutory revision authority at 2 V.S.A. § 424, the legislative council is directed to change the phrase “base education payment” wherever it may appear in the Vermont Statutes Annotated to “base education amount.”

* * * School Construction Spending; Planning for Merger; Tuition;

Programs for At-Risk Students; 21st Century After-School Programs * * *

Sec. 20. 16 V.S.A. § 4001(6) is amended to read:

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) which is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fund raising, federal funds, nongovernmental grants, or other state funds such as special education funds paid under chapter 101 of this title.

(A) For purposes of determining whether a proposed budget shall be presented by means of a divided question pursuant to subdivision 563(11)(A) of this title, “education spending” shall not include:

(i) Spending during the budget year for approved school capital construction for a project that received preliminary approval under section

3448 of this title, including interest paid on the debt; provided the district shall not be reimbursed or otherwise receive state construction aid for the approved school capital construction.

(ii) For a project that received final approval for state construction aid under chapter 123 of this title:

(I) Spending for approved school capital construction during the budget year that represents the district's share of the project, including interest paid on the debt;

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

(iii) For a district that provides for the education of its resident pupils in one or more grades by paying tuition and does not maintain a school that includes the grade or grades, in the district's discretion, the district's anticipated spending for tuition in the year for which the budget is proposed; alternatively, the district may choose to include within its definition of "education spending" its estimated tuition expenditures for the budget year.

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

(v) Spending attributable to the district's share of spending for 21st Century Community Learning Centers after-school programs.

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

(B) For purposes of calculating excess spending pursuant to subdivision 5401(12) of Title 32, “education spending” shall not include:

(i) Spending during the budget year for approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt; provided the district shall not be reimbursed or otherwise receive state construction aid for the approved school capital construction.

(ii) For a project that received final approval for state construction aid under chapter 123 of this title:

(I) Spending for approved school capital construction during the budget year that represents the district’s share of the project, including interest paid on the debt;

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

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

* * * Higher Education * * *

Sec. 21. 6 V.S.A. § 20 is added to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL
LOAN REPAYMENT FUND

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

(b) The fund shall consist of:

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

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

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

(c) The agency shall administer the fund and make sums available for loan repayment awards. The agency may contract with a Vermont nonprofit entity for administration of the program, which shall administer awards in

compliance with the requirements of Section 108(f) of the Internal Revenue Code.

Sec. 22. LARGE ANIMAL VETERINARIANS; EDUCATIONAL LOAN
REPAYMENT PROGRAM; PROPOSAL AND REPORT

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

(b) The members of the committee shall be:

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

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

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

(4) The secretary of commerce and community development or the

secretary's designee.

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

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

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

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

(c) On or before December 1, 2009, the committee shall present a detailed proposal to the senate and house committees on education and on agriculture outlining recommendations designed to promote the purposes of this section.

Sec. 23. EDUCATIONAL LOAN REPAYMENT; 2009 INTERIM

(a) If private funds are deposited into the Vermont large animal veterinarian educational loan repayment fund created in Sec. 21 of this act before a loan repayment program is developed and implemented under Sec. 22 of this act, then notwithstanding any provision of law to the contrary, the secretary of agriculture, food and markets may use the money to repay a portion of the outstanding educational loans of one or more licensed veterinarians in exchange for the service commitment to work in the large animal veterinary field in Vermont for a defined number of years, which shall be defined by contract; provided the secretary shall not divulge the identity of

the private source or sources of funding to the award recipient. The secretary may enter into a contract with an entity, such as the area health education centers program of the University of Vermont, to help administer the provisions of this section, and may pay the entity for its administrative costs from fund monies. Payment of awards shall be made directly to the educational loan creditor of the award recipient and shall be available only to a veterinarian who:

(1) Is licensed in Vermont;

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

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

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

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

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

(2) The decision to make some or all of the private monies available for

educational loan repayment under this section and the criteria on which the award decisions will be made, at least 14 days prior to announcing publicly the availability of the funds.

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

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

* * * Adequate Yearly Progress * * *

Sec. 24. Secs. 13 and 14 of No. 182 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 35 of No. 154 of the Acts of the 2007 Adj. Sess. (2008) are further amended to read:

~~Sec. 35. Secs. 13 and 14 of No. 182 of the Acts of the 2005 Adj. Sess. (2006) are amended to read:~~

Sec. 13. Sec. 2 of No. 64 of the Acts of 2003, as amended by Sec. 4 of No. 114 of the Acts of the 2003 Adj. Sess. (2004), is amended to read:

Sec. 2. COMPLIANCE WITH FEDERAL REQUIREMENTS; MEASURING
ADEQUATE YEARLY PROGRESS TOWARD ACHIEVING
STATE STANDARDS; CONSEQUENCES

16 V.S.A. § 165 authorizes the commissioner of education to determine how well schools and students are meeting state standards every two years and to impose certain consequences if schools are failing to meet standards after specific time periods. Notwithstanding the provisions of that section, in order

to comply with the provisions of Public Law 107-110, known as the No Child Left Behind Act of 2001, ~~during school years 2003-2004 through 2008-2009~~ as amended from time to time (the “Act”), while it is in effect, the commissioner is authorized to determine whether schools and school districts are meeting state standards annually and the state board of education is authorized to impose on schools and school districts consequences allowed in state law and required by the Act within the time frame required in the Act. However, consistent with Title IX, Part E, Subpart 2, Sec. 9527 of the No Child Left Behind Act, neither the state nor any subdivision thereof shall be required to spend any funds or incur any costs not paid for under the Act in order to comply with the provisions of the Act. The state or any subdivision thereof may expend other funds for activities they were already conducting consistent with the Act, or for activities authorized in a state or local fiscal year 2004 budget. It is the intent of the general assembly to continue to study the provisions of the federal law and to seek guidance from the federal government in order to determine permanent changes to Title 16 that will be necessary to comply with federal law and to avoid having federal law cause state and local governments to absorb the cost of unfunded mandates.

Sec. 14. Subsections (b), (c), and (e) of Sec. 3 of No. 64 of the Acts of 2003, as amended by Sec. 5 of No. 114 of the Acts of the 2003 Adj. Sess. (2004), are amended to read:

(b) Notwithstanding the provisions of 16 V.S.A. §§ 1075(e), 1093, and 1128(b) which stipulate that a child of parents who become homeless shall be educated in the school district in which the child is found and that a school district may choose not to accept nonresident pupils, in order to comply with the provisions of Public Law 107-110, known as the No Child Left Behind Act of 2001, as amended from time to time (the "Act"), the provisions of this section shall apply to children who are homeless during ~~school years 2003-2004 through 2008-2009~~ those school years in which the Act is in effect. It is the intent of the general assembly to continue to study the provisions of the federal law and to seek guidance from the federal government in order to determine permanent changes to Title 16 that will be necessary to comply with federal law.

(c) If a child becomes homeless during a school year ~~2005-2006, 2006-2007, 2007-2008, or 2008-2009~~ in which the Act is in effect, the child shall either be educated: in the school of origin for the duration of the homelessness or for the remainder of the academic year if the child becomes permanently housed outside the district of origin; or in the school district in which the child is actually living. The determination as to which school the

child shall attend shall be made by the school board of the school district in which the child is living according to the best interests of the child.

(e) Notwithstanding the provisions of 16 V.S.A. § 4001(1)(A) which stipulate that a pupil must be a legal resident of the district attending a school owned and operated by the district in order to be counted in the average daily membership of the district, during the ~~2003–2004 through 2008–2009~~ school years in which the Act is in effect, a child who is homeless during the census period shall be counted in the school district or districts in which the child is enrolled. However, if at any time a homeless child enrolls, pursuant to this section, in a school district other than the district in which the child was counted, the district in which the child is enrolled shall become responsible for the education of the child, including payment of education services and, if appropriate, development and implementation of an individualized education plan.

* * * Miscellaneous * * *

Sec. 25. WAIVERS; SCHOOL QUALITY STANDARDS

(a) The general assembly:

- (1) Is committed to promoting the flexibility needed to transform Vermont's educational system.
- (2) Takes notice of the state board of education rule enabling school boards to request and, under circumstances protecting school quality, obtain variances from school quality standards.

(3) Authorizes the commissioner of education to act directly on a variance request, if the state board of education fails to render a decision at its first regularly scheduled meeting following receipt of a request for a variance.

(4) Encourages school district and supervisory union boards to request variances pursuant to subdivision (2) of this subsection.

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

Sec. 26. 33 V.S.A. § 3502 is amended to read:

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

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

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

* * *

(5) An after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by

the department of education, unless the after-school program asks to participate in the child care subsidy program.

* * *

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

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

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

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

* * *

Sec. 27. CODIFY EXISTING SESSION LAW RELATING TO REGIONAL
SCHOOL CHOICE FOR PUBLIC SCHOOL STUDENTS IN
GRADES 9 THROUGH 12

Pursuant to its statutory revision authority in 2 V.S.A. § 424, the legislative council is directed to codify Secs. 1 and 2 of No. 150 of the Acts of the 1999 Adj. Sess. (2000) (regional school choice for public school students in grades 9 through 12) as amended by Sec. 21 of No. 182 of the Acts of the 2005 Adj. Sess. (2006) (repealing the date on which the original act was scheduled to be repealed). Act 150, as amended, shall be codified as 16 V.S.A. §§ 1621–1622 in a new chapter 41 entitled “Chapter 41. Public High School Choice.”

* * *

Sec. 28. REPEAL

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

Sec. 29. UPDATING STATUTES TO REFLECT CURRENT NAMES OF
PROGRAMS AND DEPARTMENTS

Pursuant to its statutory revision authority in 2 V.S.A. § 424, the legislative council is directed to amend Title 16:

(1) By replacing the term “adult basic education” with the term “adult education and literacy” wherever it appears.

(2) By updating references to the names of departments, divisions, programs, and other subgroups within the agency of human services wherever they appear.

Sec. 30. REPEAL

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

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

Sec. 31. 16 V.S.A. § 1422 is amended to read:

§ 1422. ~~TESTS PERIODIC HEARING AND VISION SCREENING;~~

GUIDELINES

~~(a) Each year the superintendent shall cause a qualified person to test the hearing of all the pupils under his supervision in grades 1, 2, 3, 5, 7, and 9, using tests recommended by the state department of education in consultation with the department of health, and to keep a record of such tests according to the instructions furnished and to notify in writing the person having legal responsibility for a pupil who is found to have defective hearing. All aspects of hearing testing and hearing conservation programs shall be under the supervision and regulation of the commissioners of education and health.~~

~~(b) The superintendent shall also cause a qualified person to test the vision of all pupils under his supervision in grades 1, 3, 5, 7, and 9 or 10, each year, using tests recommended by the state department of education in consultation~~

~~with the department of health, and to keep a record of such tests according to the instructions furnished and to notify in writing the person having legal responsibility for a pupil who is found to have defective vision.~~

~~(c) The superintendent shall also cause to be tested the sight and hearing of any pupil who appears to have defective vision or hearing, at any time there appears to be a need for such test.~~

~~(d) [Repealed.]~~

~~(e) No child shall be obliged to submit to any test referred to in this section whose parent or guardian objects to the same in writing. Said written notice shall be delivered to the child's teacher or to any person who orders or conducts such test or tests.~~

Periodic hearing and vision screening of school-aged children shall be conducted by school districts and primary care providers pursuant to research-based guidelines developed by the commissioner of health in consultation with the commissioner of education. School districts and primary care providers will attempt to avoid duplicating services provided by the other and will share information as practicable and allowable by law.

* * * Teen Parent Education Programs * * *

Sec. 32. 16 V.S.A. § 11(a)(28)(C) is amended to read:

~~(C) a pregnant or postpartum pupil attending school at an approved education program in a residential facility or outside the school district of residence pursuant to subsection 1073(b) of this title.~~

Sec. 33. 16 V.S.A. § 11(a)(33), (34), and (35) are added to read:

(33)(A) “Pregnant or parenting pupil” means a legal pupil of any age who is not a high school graduate and who:

(i) is pregnant; or

(ii) has given birth, has placed a child for adoption, or has experienced a miscarriage, if any of these has occurred within one year before the public or approved independent school or the approved education program receives a request for enrollment or attendance; or

(iii) is the parent of a child.

(B) “Pregnant or parenting pupil” does not include a person whose parental rights have been terminated, except if the pupil has placed the child for adoption or has voluntarily relinquished parental rights, within one year before the public or approved independent school or the approved education program receives a request for enrollment or attendance.

(34) “Approved education program” means a program that is evaluated and approved by the state board pursuant to written standards, that is neither an approved independent school nor a public school, and that provides educational services to one or more pupils in collaboration with the pupil’s or pupils’ school district of residence. An “approved education program” includes an “approved teen parent education program.”

(35) “Teen parent education program” means a program designed to provide educational and other services to pregnant pupils or parenting pupils or both.

Sec. 34. 16 V.S.A. § 1073(b) is amended to read:

(b) Access to school.

(1) Right to a public education. No legal pupil attending school at public expense, including a married, pregnant, or ~~postpartum~~ parenting pupil, shall be deprived of or denied the opportunity to participate in or complete ~~an elementary and secondary~~ a public school education.

(2) Right to enroll in a public or independent school. Notwithstanding the provisions of sections 822 and 1075 of this title, ~~for reasons related to the pregnancy or birth~~, a pregnant or ~~postpartum~~ parenting pupil may ~~attend~~ enroll in any approved public school in Vermont or an adjacent state, any approved independent school in Vermont, or any other educational program approved by the state board in which any other legal pupil in Vermont may enroll.

(3) Teen parent education program.

(A) Residential teen parent education programs. The commissioner shall pay the educational costs for a pregnant or ~~postpartum~~ parenting pupil attending a state board approved ~~educational~~ teen parent education program in a 24-hour residential facility for up to eight months after the birth of the child. The commissioner may approve extension of payment of educational costs based on a plan for reintegration of the student into the community or for

exceptional circumstances as determined by the commissioner. The district of residence of a pupil in a 24-hour residential facility shall remain responsible for coordination of the pupil's educational program and for planning and facilitating her subsequent educational program.

(B) Nonresidential teen parent education programs.

(i) The pregnant or parenting pupil's district of residence or the approved independent or public school to which that district pays tuition for its students ("the enrolling school") shall be responsible for planning, coordinating, and assessing the enrolled pupil's education plan while attending a teen parent education program and for planning, assessing, and facilitating the pupil's subsequent education plan, including the pupil's transition back to the public or approved independent school. As determined by the district of residence or the enrolling school, as appropriate, the pupil's educational plan while attending a teen parent education program shall include learning experiences that are the substantial equivalent of the learning experiences required by the district of residence or the enrolling school to obtain a high school diploma.

(ii) A pregnant or parenting pupil may attend a nonresidential teen parent education program for a length of time to be determined by agreement of the pupil's district of residence, the enrolling school, the teen parent education program, and the pupil.

(iii) In the event of a dispute regarding any aspect of this subdivision (B), the district of residence, the enrolling school, the teen parent education program, or the pupil or any combination of these may request a determination from the commissioner whose decision shall be final; any determination by the commissioner regarding “substantial equivalency” pursuant to subdivision (i) of this subdivision (b)(3)(B) shall be based on the commissioner’s analysis of the course syllabus or the course description provided by the district of residence or enrolling school.

Sec. 35. 16 V.S.A. § 1121 is amended to read:

§ 1121. ATTENDANCE BY CHILDREN OF SCHOOL AGE REQUIRED

A person having the control of a child between the ages of six and 16 years shall cause the child to attend a public school, an approved or recognized independent school, an approved education program, or a home study program for the full number of days for which that school is held, unless the child:

* * *

Sec. 36. CONFORMING LANGUAGE

To ensure consistency of No. 192 of the Acts of the 2007 Adj. Sess. (2008) with this act, the following amendments shall be made to Sec. 5.304.1 of that act:

(1) In subdivision (a)(2), by striking the word “coordinating” and inserting in lieu thereof the following: “planning, coordinating, and assessing”.

(2) In subdivision (a)(2), after the word “planning” and before the words “and facilitating” by adding the following: “, assessing,”.

(3) In subdivision (b)(3), by striking the final sentence.

Sec. 37. TRANSITIONAL PROVISION

It is the intent of the general assembly that until July 1, 2010, a teen parent education program that has been recognized by the department for children and families shall be considered “an approved education program.”

Sec. 38. Sec. 9.0001(d) of No. 192 of the Acts of the 2007 Adj. Sess. (2008)

(sunset; teen parent education) is amended to read:

(d) Sec. 5.304.1 of this act shall take effect on July 1, 2008 ~~and shall remain in effect until July 1, 2009.~~

* * * High School Completion; Policy * * *

Sec. 39. ONE HUNDRED PERCENT BY 2020 INITIATIVE; POLICY

It is a priority of the general assembly and the department of education to take all necessary measures to increase the Vermont secondary school completion rate to 100 percent by the year 2020.

* * * Early Identification of Students Who Require Additional Assistance to Successfully Complete Secondary School * * *

Sec. 40. 16 V.S.A. chapter 99 is amended to read:

CHAPTER 99. GENERAL POLICY

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL
EDUCATION ENVIRONMENT

(a) It is the policy of the state that each local school district develop and maintain, in consultation with parents, a comprehensive system of education that will result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations ~~which~~ that are needed by students in the district. These services could include a separate alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is disrupting the class or having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide quality services to that student or to ~~the~~ other ~~pupils~~ students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. § 1401 et seq., Individuals with Disabilities Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act; and 42 U.S.C. § 12101 et seq., Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this

section.

§ 2902. EDUCATIONAL SUPPORT SYSTEM AND EDUCATIONAL
SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain an educational support system for ~~children~~ students who require additional assistance in order to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the educational support system either to the superintendent pursuant to a contract entered into under section 267 of this title, or to the principal. The educational support system shall, at a minimum, include an educational support team and a range of support and remedial services, including instructional and behavioral interventions and accommodations.

(b) The educational support system shall:

- (1) Be integrated to the extent appropriate with the general education curriculum.
- (2) Be designed to increase the ability of the general education system to meet the needs of all students.
- (3) Be designed to provide students the support needed regardless of eligibility for categorical programs.

(4) Provide clear procedures and methods for ~~handling a student who~~ addressing student behavior that is disruptive to the learning environment and ~~shall include provision of educational options, support services, and~~ consultation or training for staff where appropriate. Procedures may include ~~provision for removal of the a student from the classroom or the school~~ building for as long as appropriate, consistent with state and federal law and the school's policy on student discipline, ~~and~~ after reasonable effort has been made to support the student in the regular classroom environment.

(5) Ensure collaboration with families, community supports, and the system of health and human services.

(c) ~~Each educational support system shall include an~~ The educational support team which for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) ~~Provide a procedure for timely referral for evaluation for special education eligibility when warranted~~ Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the commissioner, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

(2) ~~Be composed of staff from a variety of teaching and support services positions~~ Identify the classroom accommodations, remedial services, and other supports that have been provided to the identified student.

(3) ~~Screen referrals to determine what classroom accommodations and remedial services have been tried.~~

(4) ~~Assist teachers in planning and providing~~ to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.

(5) Maintain a written record of its actions.

(6) Report no less than annually to the commissioner, in a form the commissioner prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).

(d) No individual entitlement or private right of action is created by this section.

(e) The commissioner shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section.

(f) It is the intent of the general assembly that a gifted and talented student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the general assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

§ 2903. PREVENTING EARLY SCHOOL FAILURE; READING

INSTRUCTION

(a) Statement of policy. The ability to read is critical to success in learning. Children who fail to read by the end of the first grade will likely fall further behind in school. The personal and economic costs of reading failure are enormous both while the student remains in school and long afterward. All students need to receive systematic reading instruction in the early grades from a teacher who is skilled in teaching reading through a variety of instructional strategies that take into account the different learning styles and language backgrounds of the students. Some students may require intensive supplemental instruction tailored to the unique difficulties encountered.

(b) Foundation for literacy. The state board of education, in collaboration with the agency of human services, higher education, literacy organizations, and others, shall develop a plan for establishing a comprehensive system of services for early education in the first three grades to ensure that all students learn to read by the end of the third grade. The plan shall be ~~submitted to the~~

~~general assembly by January 15, 1998 and shall be updated at least once every five years~~ following its initial submission in 1998.

(c) Reading instruction. A public school ~~which~~ that offers instruction in grades one, two, or three shall provide highly effective, research-based reading instruction to all students. In addition, ~~for~~ a school shall provide:

(1) Supplemental reading instruction to any enrolled student in grade four whose reading performance falls below the level expected in order to achieve third grade reading proficiency falls below third grade reading expectations, as defined under subdivision 164(9) of this title, the school shall work to improve the student's reading skills by providing additional research-based reading instruction to the student, and by providing support.

(2) Supplemental reading instruction to any enrolled student in grades 5-12 whose reading proficiency creates a barrier to the student's success in school.

(3) Support and information to parents and other family members legal guardians.

§ 2904. REPORTS

Annually, each superintendent shall report to the commissioner in a form prescribed by the commissioner, on the status of the educational support systems in each school in the supervisory union. The report shall describe the services and supports that are a part of the education support system, how they are funded, and how building the capacity of the educational support system

has been addressed in the school action plans, and shall be in addition to the report required of the educational support team in subdivision 2902(c)(6) of this chapter. The superintendent's report shall include a description and justification of how funds received due to Medicaid reimbursement under section 2959a of this title were used.

Sec. 41. 16 V.S.A. § 2959a(e) is amended to read:

(e) School districts shall utilize funds received under this section to pay for reasonable costs of administering the Medicaid claims process, and for prevention and intervention programs in grades pre-K through 12. The programs shall be designed to facilitate early identification of and intervention with children with disabilities and to ensure all students achieve rigorous and challenging standards adopted in the Vermont framework of standards and learning opportunities or locally adopted standards. A school district shall provide an annual written justification to the commissioner of education of the use of the funds. Such annual submission shall show how the funds' use is expressly linked to those provisions of the school district's action plan that directly relate to improving student performance. A school district shall include in its annual report the amount of the prior year's Medicaid reimbursement revenues and the use of Medicaid funds consistent with the purposes set forth in this subsection.

* * * High School Completion Program * * *

Sec. 42. 16 V.S.A. § 1049a is amended to read:

§ 1049a. HIGH SCHOOL COMPLETION PROGRAM

(a) In this section:

(1) “Graduation education plan” means a written plan leading to a high school diploma for a person who is 16 to 22 years of age, and has not received a high school diploma, ~~and is not~~ who may or may not be enrolled in a public or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.

(2) “Approved provider” means an ~~agency~~ entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.

(3) “Contracting agency” means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.

(b) ~~The commissioner shall assign~~ If a student person who wishes to work on a graduation education plan is not enrolled in a public or approved independent school, then the commissioner shall assign the prospective student to a high school district, which shall be the district of residence whenever

possible. ~~Upon assignment, the~~ The school district in which a student is enrolled or to which an non-enrolled student is assigned shall work with ~~an agency which has entered into contract with the department of education to provide adult education services in Vermont~~ the contracting agency and the student to develop a graduation education plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The commissioner shall reimburse, and net cash payments where possible, a ~~town school district, city school district, union school district, unified union school district, incorporated school district, or member school district of an interstate school district which~~ that has agreed to a graduation education plan in an amount:

(1) established by the commissioner for development of the graduation education plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in ~~co-curricular~~ cocurricular activities, and participation in academic or other courses, provided this amount shall not be available to a district that provides services under this section to an enrolled student; and

(2) negotiated by the commissioner and the contracting agency ~~which has entered into contract with the department of education to provide adult education services in Vermont~~, with the approved provider, for services and

outcomes purchased from the approved provider on behalf of the student pursuant to the graduation education plan.

(d) On or before January 30 of each year, ~~beginning in 2008~~, the commissioner shall report to the senate and house committees on education on the number of students participating in a graduation education plan, the number completing a plan, and the amount paid. The commissioner shall present the information organized by school district, approved independent school, and approved provider.

Sec. 43. HIGH SCHOOL COMPLETION PROGRAM; GRADUATION
EDUCATION PLAN; GUIDELINES

(a) The graduation education plan for each 16- and 17-year-old student shall include services relevant to the student's goals, such as:

(1) Career exploration.

(2) Workforce training.

(3) Workplace readiness training.

(4) Preparation for postsecondary training or education and transitioning assistance.

(b) The graduation education plan for each student who is 18 years of age or older should include services relevant to the student's goals, such as those listed in subsection (a) of this section.

(c) The commissioner shall develop and publish guidelines to assist in the implementation of this section.

* * * Commissioner of Education * * *

Sec. 44. MEASURING SECONDARY SCHOOL COMPLETION RATES

(a) On or before December 31, 2009, the commissioner of education shall develop an accurate, uniform, and reliable method for defining and measuring secondary school completion rates on a school-by-school basis, including appropriate cohort identification, and shall set benchmarks for assessing individual school performance relative to the goal of increasing the secondary school completion rate to 100 percent by the year 2020.

(b) On or before January 15 of each year through January 2020, the commissioner shall report to the senate and house committees on education regarding the state's progress in achieving the goal of a 100 percent secondary school completion rate. At the time of the report, the commissioner shall also recommend other initiatives, if any, to improve both graduation rates and secondary school success for all Vermont students.

(c) Annually through 2020, each school district operating one or more secondary schools shall report to the taxpayers at the time school budgets are presented for approval regarding the district's progress in achieving the goal of a 100 percent secondary school completion rate.

Sec. 45. FLEXIBLE PATHWAYS TO GRADUATION

On or before January 15, 2010,

(1) The commissioner of education shall evaluate the prevalence and efficacy of flexible practices and programs currently used by Vermont schools

to identify and support students who require additional assistance or alternative methods to be successful in school or to complete secondary school and shall identify schools that need assistance to begin or enhance their practices.

(2) The commissioner of education shall develop and publish guidelines to assist school districts to identify and support elementary and secondary students who require additional assistance to succeed in school or who would benefit from flexible pathways to graduation. Such guidelines may include strategies such as:

(A) Targeted assistance, including individual tutoring, evidence-based literacy instruction, alternative and extended scheduling, and opportunities to earn necessary credits necessary to obtain a high school diploma.

(B) Flexible programs designed to provide each student identified under 16 V.S.A. § 2902(c) in Sec. 2 of this act with the supports and accommodations necessary to succeed in school and to complete secondary school with the education and skills critical for success after graduation.

Examples of flexible program components include:

(i) The assignment of one or more adults from within the school community to provide continuity to the student.

(ii) The development of a personalized education plan or strategy by the student, the assigned adult or adults or another representative of the district, and the student's parents or legal guardian.

(iii) The opportunity to acquire knowledge and skills through applied or work-based learning opportunities.

(iv) The opportunity to participate in dual enrollment courses with tutorial support provided as needed.

(v) Assessments that allow the student to demonstrate proficiency by applying his or her knowledge and skills to tasks that are of interest to that student.

(3) The commissioner of education shall report to the senate and house committees on education regarding implementation of this section and recommend additional legislation, if any, necessary to ensure effective implementation by all school districts in Vermont.

* * * Truancy * * *

Sec. 46. TRUANCY

(a) On or before September 30, 2009, and in consultation and coordination with the executive director of the department of state's attorneys and sheriffs, interested judges of the Vermont district courts, and school district personnel, the commissioner of education shall develop and publish on the department of education's website comprehensive model truancy protocols consistent with the provisions of 16 V.S.A. chapter 25, subchapter 3, that confront truancy on a statewide, countywide, and supervisory unionwide basis and include the post-complaint involvement of both state's attorneys and the court system under 16 V.S.A. § 1127.

(b) On or before December 15, 2009, the commissioner shall propose to the house and senate committees on education any legislative amendments or additions necessary to implement the purposes of this section.

(c) The commissioner shall ensure that, on or before July 1, 2010, the supervisory unions in each county adopt truancy policies that are consistent with and carry forward the purposes of this section.

(d) On or before January 15, 2011, the commissioner shall report to the house and senate committees on education regarding implementation of this section.

Sec. 47. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

The board of each supervisory union shall:

* * *

(11) on or before June 30 of each year, adopt a budget for the ensuing school year; and

(12) adopt supervisory unionwide truancy policies consistent with the model protocols developed by the commissioner.

* * * Effective Dates * * *

Sec. 48. EFFECTIVE DATES; APPLICATION

(a) This act shall take effect on passage.

(b) Sec. 13 of this act, 16 V.S.A. § 826, shall apply to tuition rates established for the 2010–2011 academic year and after.

(c) Sec. 20 of this act shall apply to proposed school budgets for the 2010–2011 academic year and after.

(d) Sec. 38 of this act shall supersede and replace any other amendments enacted in this legislative session to the provision amended in Sec. 38.

Date on which the governor allowed the bill to become law without his signature: May 21, 2009