

S.130

An act relating to making miscellaneous changes to education laws

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

\* \* \* Approved Independent Schools Study Committee \* \* \*

Sec. 1. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

(a) Creation. There is created an Approved Independent Schools Study Committee to consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school.

(b) Membership. The Committee shall be composed of the following ten members:

(1) one current member of the House of Representatives who shall be appointed by the Speaker of the House;

(2) one current member of the Senate who shall be appointed by the Committee on Committees;

(3) the Chair of the State Board of Education or designee;

(4) the Secretary of Education or designee;

(5) the Executive Director of the Vermont Superintendent’s Association or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) the Executive Director of the Vermont Independent Schools

Association or designee;

(8) two representatives of approved independent schools, who shall be chosen by the Executive Director of the Vermont Independent Schools

Association; and

(9) the Executive Director of the Vermont Council of Special Education Administrators or designee.

(c) Powers and duties. The Committee shall consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school, including the following criteria:

(1) the school’s enrollment policy and any limitation on a student’s ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before January 15, 2018, the Committee shall submit a written report to the House and Senate Committees on Education with its findings and any recommendations, including recommendations for any amendments to legislation.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before May 30, 2017.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on January 16, 2018.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than seven meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than seven meetings.

\* \* \* Educational and Training Programs for College Credit \* \* \*

Sec. 2. APPROPRIATION TO THE VERMONT STATE COLLEGES  
TO EXPAND EDUCATION AND TRAINING EVALUATION  
SERVICES PROGRAM

The sum of \$20,000.00 is appropriated from the Next Generation Initiative Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for the purpose of providing funding for the Colleges' Education and Training Evaluation Services Program. The Vermont State Colleges shall use the appropriation to evaluate or reevaluate educational and training programs for college credit at no cost or at a reduced cost to the programs being evaluated. The Vermont State Colleges shall identify training programs in the skilled trades, including the plumbing and electrical trades, to receive these evaluation services. The Vermont State Colleges shall, on or before January 15, 2018, issue a report to the House and Senate Committees on Education describing how the funds appropriated pursuant to this section have been spent, how any remaining funds appropriated pursuant to this section will be spent, and the number and nature of the programs evaluated or reevaluated and the results of the evaluations.

\* \* \* Student Enrollment; Small School Grant \* \* \*

Sec. 3. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) “Eligible school district” means a school district that operates at least one school; and

(A) has a two-year average combined enrollment of fewer than 100 students in all the schools operated by the district; or

(B) has an average grade size of 20 or fewer.

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

(3) “Two-year average enrollment” means the average enrollment of the two most recently completed school years.

(4) “Average grade size” means two-year average enrollment divided by the number of grades taught in the district on October 1. For purposes of this calculation, kindergarten and prekindergarten programs shall be counted together as one grade.

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\* \* \* Vermont Standards Board for Professional Educators \* \* \*

Sec. 4. 16 V.S.A. § 1693 is amended to read:

§ 1693. STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

(a) There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers, two administrators, one of whom shall be a school superintendent, one public member, one school board member, one representative of educator preparation programs from a public institution of higher education, and one representative of educator preparation programs from a private institution of higher education.

\* \* \*

Sec. 5. TRANSITIONAL PROVISION

A superintendent shall be appointed to the Vermont Standards Board for Professional Educators upon the next expiration of the term of a member who is serving on the Board as an administrator.

\* \* \* Speech-Language Pathologists \* \* \*

Sec. 6. 26 V.S.A. § 4451 is amended to read:

§ 4451. DEFINITIONS

As used in this chapter:

\* \* \*

(5) “Educational speech-language pathologist” means a speech-language pathologist who is employed by a supervisory union or public school district in Vermont or an independent school approved for special education purposes for the purpose of providing speech-language pathology.

(6) “Secretary” means the Secretary of State.

~~(6)~~(7) “Speech-language pathologist” means a person licensed to practice speech-language pathology under this chapter, but shall not include an educational speech-language pathologist.

~~(7)~~(8) “Speech-language pathology” means the application of principles, methods, and procedures related to the development and disorders of human communication, which include any and all conditions that impede the normal process of human communication.

Sec. 7. 26 V.S.A. § 4454 is amended to read:

§ 4454. CONSTRUCTION

(a) This chapter shall not be construed to limit or restrict in any way the right of a practitioner of another occupation that is regulated by this State from performing services within the scope of his or her professional practice.

(b) This chapter shall not be construed to apply to an educational speech-language pathologist, except to the extent that an educational speech-language pathologist provides speech-language pathology services outside a school environment. An educational speech-language pathologist shall be subject to

the licensing, training, and professional standards provisions of 16 V.S.A. chapter 51. To the extent that an educational speech-language pathologist provides speech-language pathology services outside a school environment, the educational speech-language pathologist shall be subject to the licensing, training, and professional standards provisions of this chapter.

Sec. 8. TRANSITIONAL PROVISION

An individual holding an educator license with an endorsement for educational speech-language pathologist from the Agency of Education shall retain that endorsement and shall renew it with the Agency as required by law, in addition to licensure with the Agency of Education.

\* \* \* Renewal of Principal's Contracts \* \* \*

Sec. 9. 16 V.S.A. § 243(c) is amended to read:

(c) Renewal and nonrenewal. A principal who has been continuously employed for more than two years in the same position has the right either to have his or her contract renewed, or to receive written notice of nonrenewal ~~at least 90 days before~~ on or before February 1 of the year in which the existing contract expires. Nonrenewal may be based upon elimination of the position, performance deficiencies, or other reasons. The written notice shall recite the grounds for nonrenewal. If nonrenewal is based on performance deficiencies, the written notice shall be accompanied by an evaluation performed by the superintendent. At its discretion, the school board may allow a period of

remediation of performance deficiencies prior to issuance of the written notice. After receiving such a notice, the principal may request in writing, and shall be granted, a meeting with the school board. Such request shall be delivered within 15 days of delivery of notice of nonrenewal, and the meeting shall be held within 15 days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

\* \* \* Postsecondary Schools \* \* \*

Sec. 10. 16 V.S.A § 176(d) is amended to read:

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

\* \* \*

(4) Postsecondary schools 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 Graduate Institute, 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.

\* \* \*

\* \* \* Educational Opportunities \* \* \*

Sec. 11. 16 V.S.A § 165(b) is amended to read:

(b) ~~Every two years~~ Annually, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall

describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress ~~by the end of the next two year period~~ within two years of the determination, the Secretary shall recommend to the State Board one or more of the following actions:

\* \* \*

\* \* \* Local Education Agency \* \* \*

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

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

\* \* \*

~~(26) Shall carry out the duties of a local education agency, as that term is defined in 20 U.S.C. § 7801(26), for purposes of determining student performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318. [Repealed.]~~

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\* \* \* State-placed and Homeless Students \* \* \*

Sec. 13. 16 V.S.A § 1075 is amended to read:

§ 1075. LEGAL RESIDENCE DEFINED; RESPONSIBILITY AND  
PAYMENT OF EDUCATION OF STUDENT

\* \* \*

(c) State-placed students.

(1) A State-placed student in the legal custody of the Commissioner for Children and Families, 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 student is living the student's school of origin, unless ~~an alternative plan or facility for the education of the student is agreed upon by Secretary~~ the student's education team determines that it is not in the student's best interest to attend the school of origin. The student's education team shall include, as applicable, the student, the student's parents and foster parents, the student's guardian ad litem and educational surrogate parent, representatives of both the school of origin and potential new school, and a representative of the Family Services Division of the Department for Children and Families. In the case of a dispute as to where a State-placed student is living, ~~the Secretary shall conduct a hearing to determine which school district is responsible for educating the student.~~ The Secretary's decision shall be final about whether it is in the student's best interest to attend the school of origin,

the Commissioner for Children and Families shall make the final decision. As used in this section, “school of origin” means the school in which the child was enrolled at the time of placement into custody of the Commissioner for Children and Families, or in the case of a student already in the custody of the Commissioner for Children and Families, the school the student most recently attended.

(2) If a student 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~~ be responsible for the student’s transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A State-placed student not in the legal custody of the Commissioner for Children and Families, 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 student is living unless an alternative plan or facility for the education of the student is agreed upon by the Secretary. In the case of dispute as to where a State-placed student is living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary’s decision shall be final.

(4) A student who is in temporary legal custody pursuant to 33 V.S.A. § 5308(b)(3) or (4) 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 student's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the student's legal guardian resides, or the district in which the temporary legal custodian resides. If the student 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 student's transportation to and from school, unless the receiving district chooses to provide transportation.

(4)(5) If a student 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 student's parents or legal guardians reside, then, at the request of the student's parent or legal guardian, the Secretary may order the student to continue his or her enrollment for the remainder of the academic year in the district in which the student resided prior to returning to the parent's or guardian's district and the student will continue to be funded as a State-placed student. Unless the receiving district chooses to provide transportation:

\* \* \*

(e) For the purposes of this title, the legal residence or residence of a child of homeless parents is ~~where the child temporarily resides~~ the child's school of origin, as defined in subdivision (c)(1) of this section, unless the parents

and another school district agree that the child's attendance in school in that school district will be in the best interests of the child ~~in that continuity of education will be provided and transportation will not be unduly burdensome to the school district.~~ A "child of homeless parents" means a child whose parents:

\* \* \*

\* \* \* Early College \* \* \*

Sec. 14. REPEAL

16 V.S.A § 4011(e) (early college) is repealed.

Sec. 15. 16 V.S.A § 946 is added to read:

§ 946. EARLY COLLEGE

(a) For each grade 12 Vermont student enrolled, the Secretary shall pay an amount equal to 87 percent of the base education amount to:

(1) the Vermont Academy of Science and Technology (VAST); and

(2) an early college program other than the VAST program that is developed and operated or overseen by the University of Vermont, by one of the Vermont State Colleges, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (2), the Secretary shall not pay more than the tuition charged by the institution.

(b) The Secretary shall make the payment pursuant to subsection (a) of this section directly to the postsecondary institution, which shall accept the amount as full payment of the student's tuition.

(c) A student on whose behalf the Secretary makes a payment pursuant to subsection (a) of this subsection:

(1) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(2) shall not be enrolled concurrently in a secondary school operated by the student's district of residence or to which the district pays tuition on the student's behalf; and

(3) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however, that if more than five percent of the grade 12 students residing in a district enroll in an early college program, then the district may include the number of students in excess of five percent in its average daily membership; but further provided that a student in grade 12 enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(d) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student's personalized learning plan.

Sec. 16. REPEAL

16 V.S.A § 4011a (early college program; report; appropriations) is repealed.

Sec. 17. 16 V.S.A § 947 is added to read:

§ 947. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

(a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to section 946 of this title shall report annually in January to the Senate and House Committees on Education regarding the level of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific results for participating students relating to programmatic goals.

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to section 946 of this title, including the VAST program, as a distinct amount.

\* \* \* Advisory Council on Special Education \* \* \*

Sec. 18. 16 V.S.A § 2945(c) is amended to read:

(c) The members of the Council who are employees of the State shall receive no additional compensation for their services, but actual and necessary expenses shall be allowed State employees, and shall be charged to their departments or institutions. The members of the Council who are not employees of the State shall receive a per diem compensation ~~of \$30.00 per day~~ as provided under 32 V.S.A. § 1010 for each day of official business and reimbursement for actual and necessary expenses at the rate allowed State employees.

\* \* \* Effective Dates \* \* \*

Sec. 19. EFFECTIVE DATES

(a) This section, Secs. 1–5, 9–12, and 14–18 shall take effect on passage.

(b) Secs. 6–8 (speech-language pathologists) shall take effect on January 1, 2018.

(c) Sec. 13 (State-placed students) shall take effect beginning with the 2017–2018 school year.