

S.166

Introduced by Senators Brock, Benning, Collamore, McNeil, Parent, Starr and
White

Referred to Committee on Education

Date: March 19, 2019

Subject: Education; dissolution of the State Board of Education

Statement of purpose of bill as introduced: This bill proposes to dissolve the
State Board of Education and to transfer the Board's current authorities and
duties to the Secretary of Education.

~~An act relating to the dissolution of the State Board of Education~~

An act relating to reforming the State Board of Education

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

~~Sec. 1. STATE BOARD OF EDUCATION; SECRETARY OF~~

~~EDUCATION; AGENCY OF EDUCATION; POWERS AND~~

~~DUTIES~~

~~(a) Actions relating to education are the province of the Governor, through~~
~~the Secretary of Education who is appointed by the Governor, and the General~~
~~Assembly. The Governor and the General Assembly are accountable to the~~
~~public for the delivery of education at the State level, and school boards are~~
~~accountable to the public for the delivery of education at the local level. The~~
~~members of the State Board of Education are not publicly elected and are not~~

1 accountable to the public for their actions. This act dissolves the State Board
2 of Education and transfers the Board's current authorities and duties to the
3 Secretary of Education in order to better ensure transparency and
4 accountability to the public.

5 (b) The State Board of Education shall cease to exist as of the effective
6 date of this act, and its members shall be relieved of their duties.

7 (c) The Secretary of Education shall assume all the powers, duties, rights,
8 and responsibilities of the State Board of Education on the effective date of
9 this act.

10 (d) The rules of the State Board of Education in effect on the effective date
11 of this act shall be the rules of the Agency of Education until amended or
12 repealed. All references in those rules to the State Board of Education, the
13 Department of Education, and the Commissioner of Education shall be deemed
14 to refer to the Agency of Education and the Secretary of Education as
15 appropriate.

16 Sec. 2. OFFICE OF LEGISLATIVE COUNCIL; STATUTORY REVISION

17 (a) In its statutory revision capacity under 2 V.S.A. § 424, the Office of
18 Legislative Council shall, where appropriate to implement the intent of this
19 act, replace the term "State Board of Education" and "State Board" in the
20 Vermont Statutes Annotated with the term "Secretary of Education" or
21 Secretary.

1 ~~(b) On or before January 1, 2020, the Office of Legislative Council shall~~
2 ~~prepare and submit a draft bill to the House and Senate Committees on~~
3 ~~Education that makes all statutory amendments necessary to effect the intent of~~
4 ~~this act.~~

5 Sec. 3. EFFECTIVE DATE

6 ~~This act shall take effect on July 1, 2019.~~

** * * Transfer of Certain Responsibilities of the State Board of Education to
the Secretary of Education * * **

Sec. 1. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

*The State Board shall ~~evaluate education policy proposals, including timely
evaluation of policies presented by the Governor and Secretary; engage local
school board members and the broader education community; and establish
and advance education policy for the State of Vermont and, consistent with the
provisions of this title, its own rules, and rules adopted by the Secretary,
establish and regularly update a long-term strategic vision for the delivery of
educational services in Vermont; advise the General Assembly, the Governor,
and the Secretary of Education on high priority educational policies and issues
as they arise; and act in accordance with Legislative mandates, including the
adoption of rules and executing special assignments.~~ In addition to other
specified duties, the Board shall:*

*(1) Establish such advisory commissions as in the judgment of the Board
will be of assistance to it in carrying out its duties. Advisory commission
members shall serve with or without compensation at the discretion of the
Board but shall receive actual expenses incurred in pursuance of their duties.*

*(2) Have the authority to enter into agreements with school districts,
municipalities, states, the United States, foundations, agencies, or individuals
for service, educational programs, or research projects.*

*(3) Examine and determine all appeals that by law are made to it and
prescribe rules of practice in respect thereto, not inconsistent with law.*

*(4) ~~Review and comment on an Agency budget prepared by the
Secretary for the Governor. [Repealed.]~~*

(5) [Repealed.]

~~(6) Make regulations governing the attendance and records of attendance of all students and the deportment of students attending public schools. [Repealed.]~~

~~(7) Adopt rules pursuant to 3 V.S.A. chapter 25 as necessary or appropriate for the execution of its powers and duties and of the powers and duties of all persons under its supervision and control to carry out the powers and duties of the Board as directed by the General Assembly, within the limitations of legislative intent, including rules concerning:~~

~~(A) the operation and administration of the State Board of Education;~~

~~(B) educational quality standards;~~

~~(C) independent school program approval, including:~~

~~(i) approval of distance learning schools;~~

~~(ii) post-secondary schools; and~~

~~(iii) private kindergarten approval;~~

~~(D) special education, including special education finance and census-based funding;~~

~~(E) school accountability system based on student achievement;~~

~~(F) supervisory union and school district organization; and~~

~~(G) proposals for alternative structures under 2015 Acts and Resolves No. 46.~~

~~(8) Review and comment on rules proposed by the Agency of Education prior to prefiling the proposed rules with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837.~~

~~(9) ~~Implement~~ Develop and continually update standards for student performance in appropriate content areas and at appropriate intervals in the continuum from kindergarten ~~prekindergarten~~ to grade 12 and methods of assessment to determine attainment of the standards for student performance. The standards shall be rigorous, challenging, and designed to prepare students to participate in and contribute to the democratic process and to compete in the global marketplace. The standards shall include a standard for reading level proficiency for students completing grade three.~~

~~(10) [Repealed.]~~

~~(11) If deemed advisable, determine educational standards for admission to and graduation from the public schools. [Repealed.]~~

~~(12) [Repealed.]~~

~~(13) Be the State Board for the program of adult education and literacy and perform all the duties and powers prescribed by law pertaining to adult education and literacy and to act as the State approval agency for educational institutions conducting programs of adult education and literacy. [Repealed.]~~

~~(14) Adopt rules for approval of independent schools. [Repealed.]~~

~~(15) Establish criteria governing the establishment of a system for the receipt, deposit, accounting, and disbursement of all funds by supervisory unions and school districts. [Repealed.]~~

~~(16) In cooperation with the Secretary, ensure that the Agency develops information, plans, and assistance to aid in making technology and telecommunications available and coordinated in all school districts. The State Board shall develop guidelines for distribution of federal, State, or private funds designated for the development or expansion of distance learning technologies. The guidelines shall encourage, consistent with any terms or conditions established by the funding source, collaboration between schools and school districts to realize economic and educational efficiencies. [Repealed.]~~

~~(17) Report annually on the condition of education statewide and on a supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title. [Repealed.]~~

~~(18) Ensure that Vermont's students, including students enrolled in secondary career technical education, have access to a substantially equal educational opportunity by developing a system to evaluate the equalizing~~

~~effects of Vermont's education finance system and education quality standards under section 165 of this title. [Repealed.]~~

~~(19) [Repealed.]~~

~~(20) Pursuant to section 806g of this title, constitute the State Council for the Interstate Compact on Educational Opportunity for Military Children and appoint to the Council a Compact Commissioner and Military Family Education Liaison, who may be the same person. The Board may appoint additional members. [Repealed.]~~

~~(21) Report annually to the Governor and the General Assembly on the progress the Board has made on the development of education policy for the State current condition and future prospects of education in Vermont.~~

~~Sec. 2. 16 V.S.A. § 212 is amended to read:~~

~~§ 212. SECRETARY'S DUTIES GENERALLY~~

~~The Secretary shall execute those policies adopt rules pursuant to 3 V.S.A. chapter 25 necessary to execute the powers and responsibilities given to the Secretary under this title or otherwise required or authorized by State or federal law and as directed by the General Assembly, except that the Secretary shall not adopt rules in areas reserved to the State Board of Education under section 164 of this title, implement rules adopted by the Secretary and the State Board in the legal exercise of its their powers, and shall:~~

~~* * *~~

~~(23) Make rules governing the attendance and records of attendance of all students and the deportment of students attending public schools.~~

~~(24) Establish criteria governing the establishment of a system for the receipt, deposit, accounting, and disbursement of all funds by supervisory unions and school districts.~~

~~(25) Provide guidance to school districts to make technology and telecommunications available and coordinated in all school districts, including guidelines for the distribution of federal, State, and private funds designated for the development or expansion of distance learning technologies. The guidelines shall encourage, consistent with any terms or conditions established by the funding source, collaboration between schools and among school districts to realize economic and educational efficiencies.~~

~~(26) Report annually on the condition of education statewide and on a supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision 164(9) of this title, number and types of complaints of hazing,~~

harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title. The report shall also include information on the and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

(27) Ensure that Vermont's students, including students enrolled in secondary career technical education, have access to a substantially equal educational opportunity by developing a system to evaluate the equalizing effects of Vermont's education finance system and education quality standards under section 165 of this title.

(28) Be responsible for the program of adult education and literacy and perform all the duties and powers prescribed by law pertaining to adult education and literacy and to act as the State approval agency for educational institutions conducting programs of adult education and literacy.

(29) Submit proposed rules to the State Board for review and comment prior to prefiling them with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837 within a time frame that accommodates the State Board's review of the proposed rules and the Secretary's ability to respond to the State Board's comments.

* * * Conforming Changes to Law in 16 V.S.A. chapter 3
(State Board of Education) * * *

Sec. 3. 16 V.S.A. § 167 is amended to read:

§ 167. HIGH SCHOOL EQUIVALENCE CERTIFICATE

The ~~State Board~~ Secretary is authorized to grant high school equivalency certificates to any person who has not been graduated from a high school on the basis of credits earned in the U.S. Armed Forces, credits earned in approved schools for adults, or satisfactory scores obtained on approved examinations.

Sec. 4. 16 V.S.A. § 175 is amended to read:

*§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS;
CLOSING*

(a) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1) promptly inform the ~~State Board~~ Secretary;

(2) prepare the academic record of each current and former student in a form satisfactory to the ~~State Board~~ Secretary and including interpretive information required by the ~~Board~~ Secretary; and

(3) deliver the records to a person designated by the ~~State Board~~ Secretary to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

** * **

(d) When an institution of higher education is unable or unwilling to comply substantially with the record preparation and delivery requirements of subsection (a) of this section, the ~~State Board~~ Secretary shall bring an action in Superior Court to compel compliance with this section, and may in a proper case obtain temporary custody of the records.

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the ~~State Board~~ Secretary may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

(f) The State Board shall adopt rules under this section for its proper administration. The rules may include provisions for preparing and maintaining transferred records. Persons acting as a repository of records are bound only by maintenance provisions to which they agreed before receiving transferred records.

** * **

Sec. 5. 16 V.S.A. § 176 is amended to read:

§ 176. POSTSECONDARY SCHOOLS CHARTERED IN VERMONT

** * **

(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, 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.

** * **

(e) Issuance. On proper application, the State Board shall issue a certificate of approval or a certificate of degree-granting authority, or both, to an applicant whose goals, objectives, programs, and resources, including personnel, curriculum, finances, and facilities, are found by the State Board to be in accordance with its rules for approval of postsecondary schools and adequate and appropriate for the stated purpose and for the protection of students and the public interest. The certificate shall be for a term not exceeding five years. The certificate may be subject to conditions, terms, or limitations.

** * **

Sec. 6. 16 V.S.A. § 214 is added to read:

*§ 214. STATE COUNCIL FOR THE INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN*

Pursuant to section 806g of this title, the Agency shall constitute the State Council for the Interstate Compact on Educational Opportunity for Military Children and appoint to the Council a Compact Commissioner and Military

Family Education Liaison, who may be the same person. The Secretary may appoint additional members.

**Sec. 7. STATE BOARD OF EDUCATION RULES; AGENCY OF
EDUCATION**

(a) Except for the State Board of Education rules referenced in subsection (b) of this section, the rules of the State Board of Education in effect on the effective date of this act shall constitute the rules of the Agency of Education until amended or repealed, and all references in those rules to the State Board of Education and the Commissioner of Education shall be deemed to refer to the Secretary of Education and all references to the Department of Education shall be deemed to refer to the Agency of Education.

(b) The following rules shall continue to be the rules of the State Board of Education:

(1) Series 1200—State Board of Education;

(2) Series 1320—Special Education Finance and Census-based Funding;

(3) Series 2000—Educational Quality Standards;

(4) Series 2200—Independent School Program Approval, including:

(A) 2231—Approval of Distance Learning Schools;

(B) 2240—Post-secondary Schools; and

(C) 2270—Private Kindergarten Approval;

(5) Series 2360—Special Education;

(6) Series 2500—School Accountability System Based on Student Achievement;

(7) Series 3000—School District Organization; and

(8) Series 3400—Proposals for Alternative Structures under Act 46.

***** Conforming Changes to Law in 16 V.S.A. Excluding Chapter 3 (State Board of Education) *****

Sec. 8. 16 V.S.A. § 133 is amended to read:

§ 133. SUPERVISOR; COMPREHENSIVE HEALTH EDUCATION

(a) The Secretary ~~with the approval of the State Board~~ may appoint one qualified person to supervise the preparation of appropriate curricula for use in the public schools, to promote programs for the preparation of teachers to

teach these curricula, and to assist in the development of comprehensive health education programs.

** * **

Sec. 9. 16 V.S.A. § 136 is amended to read:

*§ 136. WELLNESS PROGRAM; ADVISORY COUNCIL ON WELLNESS
AND COMPREHENSIVE HEALTH*

** * **

(b) The Secretary with the approval of the State Board shall establish an Advisory Council on Wellness and Comprehensive Health that shall include at least three members associated with the health services field. The members shall serve without compensation but shall receive their actual expenses incurred in connection with their duties relating to wellness and comprehensive health programs. The Council shall assist the Agency to plan, coordinate, and encourage wellness and comprehensive health programs in the public schools.

** * **

Sec. 10. 16 V.S.A. § 242 is amended to read:

§ 242. DUTIES OF SUPERINTENDENTS

The superintendent shall be the chief executive officer for the supervisory union board and for each school board within the supervisory union, and shall:

** * **

(4)(A) Provide data and information required by the Secretary and by using a format approved by the Secretary to:

(i) Report budgetary data for the subsequent school year and fiscal year.

(ii) Report all financial operations within the supervisory union to the Secretary and State Board for the preceding school year on or before August 15 of each year.

(iii) Report all financial operations for each member school district to the Secretary and State Board for the preceding school year on or before August 15 of each year.

** * **

Sec. 11. 16 V.S.A. § 244 is amended to read:

§ 244. DUTIES OF PRINCIPALS

** * **

(b) Without the approval of the ~~State Board~~ Secretary, secondary school principals shall not be charged with supervisory responsibility outside the secondary school.

Sec. 12. 16 V.S.A. § 256 is amended to read:

*§ 256. CONTINUED VALIDITY OF CRIMINAL RECORD CHECK;
MAINTENANCE OF RECORDS*

** * **

(d) The ~~State Board~~ Secretary may adopt rules regarding maintenance of records.

Sec. 13. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

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

** * **

(4) In accordance with criteria established by the ~~State Board~~ Secretary, establish and implement a plan for receiving and disbursing federal and State funds distributed by the Agency of Education, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965 as amended.

** * **

(6) Provide special education services on behalf of its member districts and, except as provided in section 43 of this title, compensatory and remedial services, and provide or coordinate the provision of other educational services as directed by the ~~State Board~~ Secretary or local boards; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in whole or in part at the district level, then it may ask the Secretary to grant it a waiver from this provision.

** * **

Sec. 14. 16 V.S.A. § 471 is amended to read:

§ 471. APPLICATION OF OTHER LAWS

(a) The provisions of this title relating to the administration and maintenance of public schools, school meetings, and voting therein, to grand lists, to the raising and expending of school monies, to monies apportioned by

the ~~State Board~~ Secretary, to sharing in other State aid, to the election, appointment, powers, duties, and liabilities of school officers, to elementary and higher instruction, to transportation, board, and attendance of students, to truancy and truant officers, to furnishing of textbooks and appliances, and to all other matters pertaining to schools in a town district, unless otherwise provided, and if not inconsistent with the rights granted by their charters, shall apply to schools maintained, similar school officers, and all matters pertaining to schools in incorporated school districts.

* * *

Sec. 15. 16 V.S.A. § 551 is amended to read:

§ 551. APPLICATION OF LAWS TO SCHOOL DISTRICTS

Unless otherwise specifically provided in statute with respect to a class of school district or in a municipal charter; the laws of this title, the laws pertaining to municipal corporations, and the rules of the State Board and the Agency shall apply to all school districts.

Sec. 16. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

* * *

(b) When a school construction contract exceeds \$500,000.00:

(1) The ~~State Board~~ Secretary shall establish, in consultation with the Commissioner of Buildings and General Services and with other knowledgeable sources, general rules for the prequalification of bidders on such a contract. The Department of Buildings and General Services, upon notice by the Secretary, shall provide to school boards undergoing construction projects suggestions and recommendations on bidders qualified to provide construction services.

* * *

(d) Construction management. The school board may contract for the service of construction management to assist in a school construction project. The ~~State Board~~ Secretary, in consultation with the Commissioner of Buildings and General Services and other knowledgeable sources, shall adopt rules defining the term “construction management” and specifying the nature of bidding requirements under construction management services in order to assist school boards to comply with the public bidding requirements of this section.

* * *

(f) Waivers. The ~~State Board~~ Secretary shall by rule adopt standards governing the authority of the Secretary to grant individual waivers to the provisions of this section. The rules, at minimum, shall require the school board seeking the waiver to demonstrate to the Secretary that it is unable to comply with the bidding procedure through no fault of its own, and that it has proposed an alternative method of minimizing costs through a fair and public process.

(g) Violations. The ~~State Board~~ Secretary may deny State aid for school construction and for debt service on a project that proceeds in violation of this section.

Sec. 17. 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:

** * **

(8) Shall establish and maintain a system for receipt, deposit, disbursement, accounting, control, and reporting procedures that meets the criteria established by the ~~State Board~~ Secretary pursuant to subdivision ~~164(15)~~ 212(24) of this title and that ensures that all payments are lawful and in accordance with a budget adopted or amended by the school board. The school board may authorize a subcommittee, the superintendent of schools, or a designated employee of the school board to examine claims against the district for school expenses and draw orders for such as shall be allowed by it payable to the party entitled thereto. Such orders shall state definitely the purpose for which they are drawn and shall serve as full authority to the treasurer to make such payments. It shall be lawful for a school board to submit to its treasurer a certified copy of those portions of the board minutes, properly signed by the clerk and chair, or a majority of the board, showing to whom, and for what purpose each payment is to be made by the treasurer, and such certified copy shall serve as full authority to the treasurer to make the payments as thus approved.

** * **

(21) Shall have the authority to engage in short-term borrowing to cover the costs of those portions of projects approved by the ~~State Board~~ Secretary and that will be reimbursed by the ~~State Board~~ Secretary under sections 3447-3456 of this title but which payments will be delayed. However, the board shall borrow under this subdivision only amounts that it would receive if the ~~State Board~~ Secretary could fund its obligation and may borrow no earlier

than the time it would have received the funds. The State shall not pay for costs of borrowing funds under this subdivision.

* * *

(24) Shall adopt a policy that, in accordance with rules adopted by the ~~State Board of Education~~ Secretary, will integrate home study students into its schools through enrollment in courses, participation in cocurricular and extracurricular activities, and use of facilities.

(25) Shall, if it is a school board of a school district that maintains a secondary school, upon request, award a high school diploma to any Vermont resident who served in the military in World War II, the Korean War, or during the Vietnam era, was honorably separated from active federal military service, and does not hold a high school diploma. The ~~State Board~~ Secretary shall develop and make available an application form for veterans who wish to request a high school diploma.

* * *

Sec. 18. 16 V.S.A. § 570 is amended to read:

*§ 570. HARASSMENT, HAZING, AND BULLYING PREVENTION
POLICIES*

* * *

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

* * *

(2) establish an Advisory Council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The Council shall report annually in January to the ~~State Board~~ Secretary and the House and Senate Committees on Education. The Council shall include:

* * *

Sec. 19. 16 V.S.A. § 701a is amended to read:

§ 701a. APPLICATION OF OTHER LAWS

* * *

(b) The provisions of general law relating to the administration and maintenance of schools, to school meetings and voting at the meetings, to grand lists, to the raising and expending of school money, to money apportioned by the ~~State Board~~ Secretary, to sharing in other State or federal aid, to the election, appointments, powers, duties, and liabilities of school officers, to secondary and elementary instruction, to transportation, board,

and attendance of students, to textbooks and appliances, and to all other matters pertaining to schools in a town school district, unless inconsistent with this act or otherwise provided for in this subchapter, shall apply to schools maintained, similar school officers, and all matters pertaining to schools of the union school district.

Sec. 20. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION

** * **

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the ~~State Board~~ Secretary of Education pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:

** * **

(e) Rules. The Secretary of Education and the Commissioner for Children and Families shall jointly develop and agree to rules ~~and present them to the State Board~~ for adoption by the Secretary of Education under 3 V.S.A. chapter 25 as follows:

** * **

Sec. 21. 16 V.S.A. § 1045 is amended to read:

§ 1045. DRIVER TRAINING COURSE

(a) A driver education and training course, approved by the Agency of Education and the Department of Motor Vehicles shall be made available to students whose parent or guardian is a resident of Vermont and who have reached their 15th birthday and who are regularly enrolled in a public or independent high school approved by the ~~State Board~~ Secretary of Education.

(b) After June 30, 1984, all driver education courses shall include a course of instruction, approved by the ~~State Board~~ Secretary and the council on the effects of alcohol and drugs on driving.

** * **

Sec. 22. 16 V.S.A. § 1071 is amended to read:

§ 1071. SCHOOL YEAR AND SCHOOL DAY

** * **

(b) Hours of operation. Within the minimum set by the ~~State Board Secretary~~, the school board shall fix the number of hours that shall constitute a school day, subject to change upon the order of the ~~State Board Secretary~~.

(c) Unanticipated closings. When a public school is closed for cause beyond the control of the school board, it may petition the ~~State Board Secretary~~ for a waiver of the requirements of this section. The petition shall be filed with the ~~State Board Secretary~~ within 10 days of each occurrence and not later than June 15 of the school year involved; and the State Board shall act on the petition at its next meeting. If the petition is approved and a waiver granted, the school district shall be deemed to have satisfied the requirements of this section. If the State Board fails to act at that meeting, the petition shall be deemed to have been approved and the waiver granted.

** * **

(g) Upon application of one or more school districts, after approval by the voters of each such district, the ~~State Board Secretary~~ may grant a waiver of the requirements of subsection (a) of this section if it is satisfied that equivalent educational programming will be maintained or improved. The waiver may be granted for any purpose, including the conservation of energy.

Sec. 23. 16 V.S.A. § 1162 is amended to read:

§ 1162. SUSPENSION OR EXPULSION OF STUDENTS

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

** * **

Sec. 24. 16 V.S.A. § 1165 is amended to read:

§ 1165. ALCOHOL AND DRUG ABUSE

(a) The ~~State Board Secretary~~, in consultation with local school boards, the alcohol and drug division, the law enforcement authorities, and the juvenile court system shall formulate a general policy for the education, discipline, and referral for rehabilitation of students who are involved with alcohol or drug abuse on school property or at school functions.

(b) ~~The State Board Secretary~~ shall adopt rules for all school districts that include standards consistent with due process of law for discipline, suspension, or dismissal of students and recommended procedures for education and for referral for treatment and rehabilitation.

(c) Each school district shall adopt its own policy consistent with the State Board's ~~Agency~~ rules setting forth: recommended procedures for education; referral for treatment, counseling, and rehabilitation; and standards consistent with due process of law for discipline, suspension, or dismissal of students in accordance with section 1162 of this title. Nothing in this section is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

* * *

Sec. 25. 16 V.S.A. § 1224 is amended to read:

§ 1224. REPORTS

The superintendent shall include in his or her annual report to the school board of each district data regarding the students in the district who have been transported or boarded under the provisions of this chapter and the associated expenses. Annually, at a time fixed by the ~~State Board Secretary~~, the superintendent shall report to the ~~Board Secretary~~ regarding the students transported or boarded under the provisions of this chapter and the associated expenses.

Sec. 26. 16 V.S.A. § 1262b is amended to read:

§ 1262b. RULES

The ~~State Board Secretary~~ shall adopt rules governing grants under section 1262a of this title. The rules shall provide for grants from State funds in accordance with federal guidelines for food programs. The ~~State Board Secretary~~ may adopt other rules that are necessary to carry out the provisions of this subchapter.

Sec. 27. 16 V.S.A. § 1321 is amended to read:

§ 1321. FORM AND CONTENTS OF REGISTER

~~With the approval of the State Board, the~~ The Secretary shall prescribe the content of school registers used to keep records of student enrollment and daily attendance and to obtain statistical and other information from teachers and school officers. Schools shall maintain an electronic system for recording enrollment and attendance

Sec. 28. 16 V.S.A. § 1388 is amended to read:

*§ 1388. STOCK SUPPLY AND EMERGENCY ADMINISTRATION OF
EPINEPHRINE AUTO-INJECTORS*

(a) As used in this section:

(1) “Designated personnel” means a school employee, agent, or volunteer who has been authorized by the school administrator to provide and administer epinephrine auto-injectors under this section and who has completed the training required by State-Board Agency policy.

** * **

(f) On or before January 1, 2014, the State-Board Secretary, in consultation with the Department of Health, shall adopt policies for managing students with life-threatening allergies and other individuals with life-threatening allergies who may be present at a school. The policies shall:

** * **

(5) require each school to make publicly available protocols and procedures developed in accordance with the policies adopted by the State Board Secretary under this section.

Sec. 29. 16 V.S.A. § 1522 is amended to read:

§ 1522. DEFINITIONS

As used in this chapter:

** * **

(10) “CTE tuition” means the amount calculated by subtracting from total regional technical CTE center costs all expenditures from State and federal grants except for incentive grants, adult education grants, or other State grants as defined by State-Board Agency rule, then dividing the result by the sum of the actual number of full-time equivalent out-of-state students and the average of the full-time equivalent Vermont students for the three prior years.

** * **

Sec. 30. 16 V.S.A. § 1531 is amended to read:

*§ 1531. RESPONSIBILITY OF STATE-BOARD SECRETARY OF
EDUCATION*

(a) The State-Board Secretary has overall responsibility for the effectiveness of career technical education. This requires the Board Secretary

to collect suitable information and to take appropriate steps within its legal, financial, and personnel resources to ensure that:

** * **

~~(b) In order to provide regional career technical education services efficiently, the State Board shall designate a service region for each career technical center. However, the Board may designate a service region for two or more comprehensive high schools if that region is not served by a career technical center.~~

~~(c) For a school district that is geographically isolated from a Vermont career technical center, the State Board may approve a career technical center in another state as the career technical center that district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to section 1561(c) of this title. Any student who is a resident in the Windham Southwest Supervisory Union and who is enrolled at public expense in the Charles H. McCann Technical School or the Franklin County Technical School shall be considered to be attending an approved career technical center in another state pursuant to this subsection, and, if the student is from a school district eligible for a small schools support grant pursuant to section 4015 of this title, the student's full-time equivalency shall be computed according to time attending the school.~~

Sec. 31. 16 V.S.A. § 1531a is added to read:

§ 1531a. RESPONSIBILITY OF STATE BOARD

(a) In order to provide regional career technical education services efficiently, the State Board shall designate a service region for each career technical center. However, the Board may designate a service region for two or more comprehensive high schools if that region is not served by a career technical center.

(b) For a school district that is geographically isolated from a Vermont career technical center, the State Board may approve a career technical center in another state as the career technical center that district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to section 1561(c) of this title. Any student who is a resident in the Windham Southwest Supervisory Union and who is enrolled at public expense in the Charles H. McCann Technical School or the Franklin County Technical School shall be considered to be attending an approved career technical center in another state pursuant to this subsection, and, if the student is from a school district eligible for a small schools support grant pursuant to section 4015 of this title,

the student's full-time equivalency shall be computed according to time attending the school.

Sec. 32. 16 V.S.A. § 1532 is amended to read:

§ 1532. MINIMUM STANDARDS; MEASUREMENT OF STANDARDS

(a) The State Board Secretary shall adopt by rule:

(1) Minimum standards for the operation and performance of career technical centers that include the education quality standards adopted by the State Board under subdivision 164(9) and section 165 of this title.

(2) Standards for student performance based on the standards adopted by the State Board under subdivision 164(9) of this title and standards for industry recognized credentials.

* * *

Sec. 33. 16 V.S.A. § 1533 is amended to read:

§ 1533. CAREER TECHNICAL CENTER EVALUATION

(a) At least once in each period of five years, and in coordination with the Vermont Advisory Council on Career Technical Education, the Secretary shall evaluate the effectiveness of each career technical center in the State. The State Board Secretary by rule shall prescribe the method for conducting these evaluations.

(b) Evaluations of career technical centers shall consider at least the following areas:

(1) compliance with this chapter and the rules of the State Board Agency;

* * *

Sec. 34. 16 V.S.A. § 1534 is amended to read:

§ 1534. COURSE OF STUDY EVALUATION

(a) At least once in each period of five years, and in coordination with the Vermont Advisory Council on Career Technical Education, the Secretary shall evaluate the effectiveness of each course of study offered by any career technical center in the State. The State Board Secretary by rule shall prescribe the method for conducting these evaluations.

* * *

Sec. 35. 16 V.S.A. § 1544 is amended to read:

§ 1544. CAREER TECHNICAL COURSES IN OTHER SCHOOLS

Subject to any direction and regulations as to courses, teachers, or equipment that the ~~State Board~~ Secretary of Education may prescribe by rule, high schools may include within their courses of study pretechnical or career technical courses, or both. Before establishing such a program, a high school shall consult with the regional advisory board for its CTE service region.

Sec. 36. 16 V.S.A. § 1545 is amended to read:

§ 1545. CREDITS AND GRADES EARNED

(a) Grades earned in a course offered within a CTE program ~~approved by the State Board~~ that complies with Agency rules shall not be altered by any public school or approved or recognized independent school in Vermont and shall be applied by the school toward any State graduation requirements in accordance with rules adopted by the ~~State Board~~ Secretary. Any ~~State Board~~ Agency rules regarding earning of credits shall allow flexibility with respect to the integration of CTE education and other academic courses.

(b) The credits earned for a career technical education program ~~approved by the State Board~~ that complies with Agency rules shall be honored by any public or independent school within Vermont. If necessary to enable a student to participate in career technical education and graduate with his or her class, the credits earned shall be applied toward any school district or independent school graduation requirements exceeding the minimum number of credits required by the ~~State Board~~ Agency rule. The school board of the high school from which the student wishes to graduate shall make a determination as to whether the credits shall be applied toward graduation requirements. A decision of a school board may be appealed to the Secretary who shall construe this section to favor participation in career technical education.

* * *

Sec. 37. 16 V.S.A. § 1552 is amended to read:

§ 1552. SECONDARY STUDENT TUITION

(a) Each career technical center shall establish a tuition charge for secondary career technical education. The amount shall reflect the actual cost, as defined by Agency rule ~~of the State Board~~, of attendance in the career technical courses offered by the center. The tuition charge shall be reduced proportionally for students enrolled in a part-time program.

(b) Secondary students are eligible for tuition assistance in career technical education provided in another state when the ~~State Board~~ Secretary

determines that such career technical education can properly serve the needs of Vermont students.

* * *

Sec. 38. 16 V.S.A. § 1562 is amended to read:

§ 1562. TRYOUT CLASSES

From the monies annually available for use in career technical education, the ~~State Board~~ Secretary may reimburse part of the program cost attributable to programs designed to assist students in deciding whether to enroll in career technical courses. As a condition of such assistance, the program shall demonstrate that it has taken steps to encourage each student to consider enrolling in courses not traditional for that student's gender.

Sec. 39. 16 V.S.A. § 1563 is amended to read:

§ 1563. TRANSPORTATION ASSISTANCE

* * *

(c) The ~~State Board~~ Secretary may adopt rules necessary to implement this section.

Sec. 40. 16 V.S.A. § 1565 is amended to read:

§ 1565. SALARY ASSISTANCE

(a) The ~~State Board~~ Secretary shall reimburse a school district operating a career technical center for a portion of its cost in paying the salary of the following persons:

* * *

(b) Assistance under this section shall be determined by a formula and standards established by rule of the ~~State Board~~ Secretary. The formula and those standards:

* * *

Sec. 41. 16 V.S.A. § 1568 is amended to read:

§ 1568. REPORTING OF INFORMATION

(a) Annually, in accordance with a time line, format, and process established by ~~State Board~~ Agency rule, each CTE center shall report its costs and student enrollment, achievement, and performance measures to the Secretary. CTE center financial accounts shall be kept separately from those of the host high school in accordance with rules adopted by the ~~State Board~~ Secretary, which shall clearly delineate relevant costs and revenues.

(b) If a CTE center fails to file financial or student information required under this section within the timelines established by Agency rule of the ~~State Board~~, the Secretary may withhold funds due under this chapter and shall subtract \$100.00 per business day from funds due the center under this chapter. The Secretary may waive the \$100.00 penalty upon appeal by the center for good cause.

Sec. 42. 16 V.S.A. § 1577 is amended to read:

*§ 1577. DUTIES AND AUTHORITY OF ALTERNATIVE GOVERNANCE
BOARD*

The governance board of a CTE center authorized under this subchapter, in addition to other duties and authority specifically assigned by law to the governing authority of a CTE center, shall have the following duties and authority:

** * **

(6) To establish and maintain a system for receipt, deposit, disbursement, accounting, control, and reporting procedures that meets the criteria established by the ~~State Board~~ Secretary pursuant to subdivision ~~164(15)~~ 212(24) of this title and that ensures all payments are lawful and in accordance with the budget adopted pursuant to terms approved by the ~~State Board~~ Secretary. The ~~Board~~ Secretary may authorize a subcommittee, a superintendent of schools, or a designated employee of the ~~Board~~ Agency to examine claims against the district for center expenses, and draw orders for such as shall be allowed by it payable to the party entitled thereto. Such orders shall state definitely the purpose for which they are drawn, and shall serve as full authority to the treasurer to make such payments. It shall be lawful for a board to submit to its treasurer a certified copy of those portions of the board minutes, properly signed by the clerk and chair, or a majority of the board, showing to whom, and for what purpose, each payment is to be made by the treasurer, and the certified copy shall serve as full authority to the treasurer to make the approved payments.

** * **

Sec. 43. 16 V.S.A. § 1601 is amended to read:

§ 1601. DEFINITIONS

As used in this chapter:

** * **

(2) "Industry competency standards" ~~mean~~ means performance criteria developed jointly by educators and business representatives and adopted by the

~~State Board~~ Secretary that define skills and knowledge that are needed in the workplace.

* * *

(5) "Student apprentice coordinator" means a licensed professional educator whom the ~~State Board of Education~~ Secretary finds qualified to plan, implement and evaluate a student apprenticeship program.

* * *

Sec. 44. 16 V.S.A. § 1602 is amended to read:

§ 1602. SCHOOL BOARD RESPONSIBILITIES

* * *

(b) Each school board that runs a student apprenticeship program shall:

* * *

(2) Ensure preparation of individuals employed by business to be worksite mentors according to guidelines established by the ~~State Board~~ Secretary. Each participating business shall support the preparation of the worksite mentor as a condition to participating in the student apprenticeship program.

* * *

Sec. 45. 16 V.S.A. § 1603 is amended to read:

§ 1603. ELEMENTS OF THE PROGRAM

(a) An eligible student may apply to enter the student apprenticeship program upon successful completion of grade 10 or its equivalent and meeting entrance requirements established by the ~~State Board of Education~~ Secretary.

* * *

(f) A student apprentice who successfully completes a student apprenticeship program shall receive an industry competency certificate issued by the ~~State Board of Education~~ Secretary. In order to earn an industry competency certificate, a student apprentice shall demonstrate mastery of industry competency standards and shall complete academic requirements for graduation.

* * *

Sec. 46. 16 V.S.A. § 1604 is amended to read:

*§ 1604. ~~STATE BOARD SECRETARY OF EDUCATION~~
RESPONSIBILITIES*

The ~~State Board of Education~~ Secretary shall:

** * **

(6) Certify those who graduate from a student apprenticeship program as meeting industry competency standards for entrance into the trade or profession the student has studied. The ~~State Board~~ Secretary shall maintain a record of certificates issued under this subdivision.

Sec. 47. 16 V.S.A. § 1605 is amended to read:

§ 1605. REGIONAL ADVISORY BOARD RESPONSIBILITIES

Each regional advisory board shall:

(1) Based on standards of operation established by the ~~State Board of Education~~ Secretary, approve or disapprove an application from a school board to establish and operate a student apprenticeship program. The ~~Board~~ Secretary may rescind approval if the program is not meeting the standards.

(2) Based on standards and processes established by the ~~State Board~~ Secretary, determine which applicants shall be accepted into the student apprenticeship programs in its region and determine whether a student should be terminated from a program. Decisions regarding acceptance into a program shall, in part, be based on submission of an acceptable career preparation plan developed by the applicant with the help of a guidance counselor. Decisions regarding termination shall be made with the advice of the student apprenticeship coordinator.

** * **

Sec. 48. 16 V.S.A. § 1931 is amended to read:

§ 1931. DEFINITIONS

As used in this chapter:

** * **

(20) "Teacher" shall mean any licensed teacher, principal, supervisor, superintendent, or any professional licensed by the Vermont Standards Board for Professional Educators who is regularly employed, or otherwise contracted if following retirement, for the full normal working time for his or her position in a public day school or school district within the State, or in any school or teacher-training institution located within the State, controlled by the State Board of Education or the Agency of Education, and supported wholly by the

State; or in certain public independent schools designated for such purposes by the Board in accordance with section 1935 of this title. In all cases of doubt, the Board shall determine whether any person is a teacher as defined in this chapter. It shall not mean a person who is teaching with an emergency license.

* * *

Sec. 49. 16 V.S.A. § 1935 is amended to read:

*§ 1935. TEACHERS IN CERTAIN PUBLIC OR INDEPENDENT
SCHOOLS*

(a) The Board of Trustees may designate certain public or independent schools, which are located within the State, and supported wholly or in part by the State but ~~which~~ that are not under the control of the State Board of Education or the Agency of Education, as employers of teachers within the meaning of this chapter.

* * *

Sec. 50. 16 V.S.A. § 2903 is amended to read:

*§ 2903. PREVENTING EARLY SCHOOL FAILURE; READING
INSTRUCTION*

* * *

(b) Foundation for literacy. The ~~State Board~~ Agency 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 updated at least once every five years following its initial submission in 1998.

* * *

Sec. 51. 16 V.S.A. § 2905 is amended to read:

§ 2905. PREKINDERGARTEN-16 COUNCIL

* * *

(h) The Council shall report on its activities to the House and Senate Committees on Education and to the ~~State Board~~ Secretary of Education each year in January. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 52. 16 V.S.A. § 2944 is amended to read:

§ 2944. SPECIAL EDUCATION

(a)–(c) [Repealed.]

(d) The Secretary ~~with the advice of the State Board~~ may make grants for programs and may make grants, subject to conditions the Secretary shall establish, to persons whom he or she finds qualified for either part-time or full-time study in programs designed to qualify them as special education personnel.

** * **

Sec. 53. 16 V.S.A. § 2945 is amended to read:

§ 2945. ADVISORY COUNCIL ON SPECIAL EDUCATION

** * **

(d) The Council shall:

** * **

(2) review periodically the rules, regulations, standards, and guidelines pertaining to special education and recommend to the State Board and the Secretary any changes it finds necessary;

** * **

(4) advise the State Board and the Secretary in the development of any State plan for provision of special education.

Sec. 54. 16 V.S.A. § 2958 is amended to read:

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

** * **

(e) Costs for residential placement shall be reimbursed under subchapter 2 of this chapter only if the residential facility is approved by the ~~State Board~~ Secretary for the purposes of providing special education and related services to children with disabilities.

Sec. 55. 16 V.S.A. § 2973 is amended to read:

§ 2973. INDEPENDENT SCHOOL TUITION RATES

** * **

(c) The ~~State Board~~ Secretary is authorized to enter into interstate compacts with other states to regulate rates for tuition, room, and board for students receiving special education in independent schools.

Sec. 56. 16 V.S.A. § 2974 is amended to read:

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

Annually, the Secretary shall report to the ~~State Board~~ House and Senate Committees on Education regarding:

** * **

Sec. 57. 16 V.S.A. § 2974 is amended to read:

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

Annually, the Secretary shall report to the ~~State Board~~ House and Senate Committees on Education regarding:

** * **

Sec. 58. 16 V.S.A. § 2974 is amended to read:

*§ 2869. LOAN CANCELLATION; MATHEMATICS, SCIENCE, AND
COMPUTER SCIENCE TEACHERS*

(a) Loans obtained under this subchapter may be partially or completely cancelled and forgiven for a borrower who is employed for a complete academic school year as a full-time licensed teacher:

(1) in a Vermont elementary or secondary school ~~that is approved by the State Board~~; and

** * **

Sec. 59. 16 V.S.A. § 3448 is amended to read:

*§ 3448. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION
PROJECTS; RENEWABLE ENERGY*

(a) Construction aid.

(1) Preliminary application for construction aid. A district or independent school eligible for assistance under section 3447 of this title, that intends to construct or purchase a new school, or make extensive additions or alterations to its existing school, and desires to avail itself of State school construction aid, shall submit a written preliminary application to the Secretary. A preliminary application shall include information required by the ~~State Board~~ Secretary by rule and shall specify the need for and purpose of the project.

(2) *Approval of preliminary application.*

(A) *When reviewing a preliminary application for approval, the Secretary shall consider:*

* * *

(iv) *statewide educational initiatives and the strategic plan of the State Board of Education.*

* * *

(3) *Priorities. Following approval of a preliminary application and provided that the district has voted funds or authorized a bond for the total estimated cost of a project, the ~~State Board~~ Secretary shall assign points to the project so that the project can be placed on a priority list based on the number of points received. Once a project receives points, if it does not receive funding in a given year, it shall not lose points in subsequent years and, pursuant to rule of the ~~Board~~ Secretary and provided the scope of the project remains the same, it shall gain points due to length of time on the list and may gain points for any other reason. The points shall be assigned in the following priority:*

* * *

(4) *Request for legislative appropriation. By On or before January 15 of each year, the ~~State Board~~ Secretary shall present the House Committee on Corrections and Institutions and the Senate Committee on Institutions with its annual capital construction funding request. Following receipt of the request, the Committees shall recommend a total school construction appropriation for the next fiscal year to the General Assembly. The General Assembly shall not revise the order of the project priorities presented by the ~~State Board~~ Secretary. The funding request to the Committees shall be in the form of separate line items as follows:*

(A) *a list of projects that have been assigned points in their order of priority, including the voted funds or authorized bond amount for each project;*

(B) *the cost of emergency projects that the ~~State Board~~ Secretary has approved but not yet reimbursed due to insufficient funds, as well as the estimated cost of those that might be approved in the coming year under subsection (d) of this section;*

(C) *the cost of projects to extend the life of a building that the ~~State Board~~ Secretary has approved but not yet reimbursed due to insufficient funds, as well as the estimated cost of those that might be approved by the ~~State Board~~ Secretary in the coming fiscal year under subdivision (3)(B) of this subsection (a).*

(5) Final approval for construction aid.

(A) Unless approved by the Secretary for good cause in advance of commencement of construction, a school district shall not begin construction before the ~~State Board~~ Secretary approves a final application. A school district may submit a written final application to the ~~State Board~~ Secretary at any time following approval of a preliminary application.

(B) The ~~State Board~~ Secretary may approve a final application for a project provided that:

** * **

(iv) the district has provided for construction financing of the project during a period prescribed by the ~~State Board~~ Secretary;

** * **

(C) The board of trustees of an independent school may submit a written final application to the ~~State Board~~ Secretary for a project for which a preliminary application has been approved by the Secretary, provided that each municipality represented on the board of trustees has voted funds or authorized a bond issue for 100 percent of the municipality's estimated share of the project in an amount determined by the Secretary under this section.

(D) The ~~State Board~~ Secretary may provide that a grant for a high school project is conditioned upon the agreement of the recipient to provide high school instruction for any high school pupil living in an area prescribed by the ~~Board~~ Secretary who may elect to attend the school.

** * **

(8) Eligible construction cost.

(A) Space and cost parameters. Only those portions of a project shall be eligible for construction aid that meet space and cost parameters adopted by the ~~State Board~~ Secretary. The parameters shall define maximum square footage costs, maximum gross square footage per student by grade range and school size, and minimum and maximum square footage allowances per student for programs and services.

** * **

(9) Payment. Upon satisfactory evidence that a project approved under subdivision (5) of this subsection (a) is under construction or has been constructed, and upon appropriation of funds sufficient to fund the State aid due under this section, the ~~State Board~~ Secretary shall certify an award for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment of one-half of the award, or the entire award if the

project is complete. After a project has been completed according to approved plans and specifications and the cost thereof has been audited by the Agency, the Secretary shall certify the remainder of the award due for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment. Provided, however, if a project that is included on a prioritized list, for which list the General Assembly has appropriated funds in any year, is not eligible to be certified for one-half of the award or for the entire award, and if another project of lesser priority is eligible for certification, nothing in this section shall preclude the ~~State Board~~ Secretary from certifying an award for the lesser priority project prior to the higher priority project.

* * *

(e) Rules. The ~~State Board~~ Secretary shall adopt rules pertaining to school construction and capital outlay.

* * *

Sec. 60. 16 V.S.A. § 3448a is amended to read:

§ 3448a. APPEAL

Any municipal corporation or independent school as defined in section 3447 of this title aggrieved by an order, allocation or award of the ~~State Board~~ Secretary of Education may, within 30 days, appeal ~~therefrom~~ to the State Board, and may appeal from the decision of the State Board, within 30 days of that decision, to the Superior Court in the county in which the project is located.

Sec. 61. 16 V.S.A. § 3448f is amended to read:

*§ 3448f. ENERGY PERFORMANCE CONTRACTING;
AUTHORIZATION; STATE AID*

(a) Definitions. As used in this section:

(1) "Cost-saving measure" means any facility improvement, repair, or alteration or any equipment, fixture, or furnishing to be constructed or installed in any facility that is designed to reduce energy consumption and operating costs or to increase the operating efficiency of facilities for their appointed functions, that is cost effective, and that is further defined by ~~State Board~~ Agency rule.

* * *

(f) State funding for energy conservation measures.

* * *

(3) Priorities. Following approval of a district's application, the ~~State Board~~ Secretary shall assign points, established by ~~Board~~ Agency rule, to the project so that the project can be placed on a priority list distinct from but similar to the list established under section 3448 of this title, based on the number of points received. Once a project receives points, if it does not receive funding in a given year, it shall not lose points in subsequent years and, pursuant to ~~Board~~ Agency rule and provided the scope of the project remains the same, it shall gain points due to the length of time on the list and may gain points for any other reason. Prioritized projects under this section shall be included in the ~~State Board's~~ Secretary's request for legislative appropriation as a separate and distinct line item under section 3448 of this title. Any legislative appropriation made to fund the line item for performance contracts shall not exceed 20 percent of the appropriation made in the same year to fund State aid for school construction under section 3448.

* * *

(5) Eligible costs. A project or portions of a project under this section shall be eligible for aid pursuant to criteria established by ~~State Board~~ Agency rule.

(6) Payment. Upon completion of the construction or installation of the cost-saving measure, determination by the Department of Buildings and General Services that implementation of the cost-saving measures is expected to result in energy and operational cost-savings, and legislative appropriation sufficient to fund the State aid due under this section, the ~~State Board~~ Secretary shall certify an award for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment of the award. A district awarded State aid under this section shall use the State aid solely for the purpose of paying all or a portion of the obligation due under the performance contract at the time the award is received.

* * *

Sec. 62. 16 V.S.A. § 3454 is amended to read:

§ 3454. DEFERRED MAINTENANCE

No State school construction aid shall be available under this title for any proposed project or construction if the Secretary finds the need for the project or construction has arisen in whole or in part from significant deferred maintenance. The ~~State Board~~ Secretary, by rule, shall define "significant deferred maintenance."

Sec. 63. 16 V.S.A. § 3581 is amended to read:

§ 3581. ACCEPTANCE

The ~~State-Board~~ Secretary may accept, use, disburse, and account for federal funds made available for the purposes of acquisition, construction, reconstruction, remodeling, or repair of public school buildings.

Sec. 64. 16 V.S.A. § 3582 is amended to read:

§ 3582. FORMULATION OF PLANS

The ~~State-Board~~ Secretary may formulate any State plan, including preparation of surveys and estimates of school building needs, required by federal legislation.

Sec. 65. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

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

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

(B) The full-time equivalent enrollment in the year before the last census period, of any State-placed students as defined in subdivision 11(a)(28) of this title. A school district that provides for the education of its students by paying tuition to an approved independent school or public school outside the district shall not count a State-placed student for whom it is paying tuition for purposes of determining average daily membership. A school district that is receiving the full amount, as defined by the ~~State-Board~~ Secretary by rule, of the student's education costs under subsection 2950(a) of this title, shall not count the student for purposes of determining average daily membership. A State-placed student who is counted in average daily membership shall be counted as a student for the purposes of determining weighted student count.

* * *

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career 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) that 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 fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

* * *

(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the ~~State Board of Education~~ Secretary, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title.

* * *

Sec. 66. 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:

(A) operates at least one school with an average grade size of 20 or fewer; and

(B) has been determined by the ~~State Board~~ Secretary, on an annual basis, to be eligible due to either:

* * *

Sec. 67. 16 V.S.A. § 4016 is amended to read:

§ 4016. REIMBURSEMENT FOR TRANSPORTATION EXPENDITURES

* * *

(b) ~~In~~ As used in this section, “allowable transportation expenditures” means the costs of transporting students to and from school for regular classroom services and shall not include expenditures for transporting students participating in curricular activities that take place off the school grounds or for transporting students participating in cocurricular activities. The State ~~Board~~ Secretary shall further define allowable transportation expenditures by rule.

(c) A district or supervisory union may apply and the Secretary may pay for extraordinary transportation expenditures incurred due to geographic or other conditions such as the need to transport students out of the school district to attend another school because the district does not maintain a public school. The State~~—Board~~ Secretary shall define extraordinary transportation expenditures by rule. The total amount of base year extraordinary transportation grant expenditures shall be \$250,000.00 for fiscal year 1997, increased each year thereafter by the annual price index for state and local government purchases of goods and services. Extraordinary transportation expenditures shall not be paid out of the funds appropriated under subsection (b) of this section for other transportation expenditures. Grants paid under this section shall be paid from the Education Fund and shall be added to adjusted education payment receipts paid under section 4011 of this title.

Sec. 68. 16 V.S.A. § 4030 is amended to read:

§ 4030. DATA SUBMISSION; CORRECTIONS

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

** * **

(e) The State~~—Board~~ Secretary may adopt rules as necessary to implement the provisions of this section.

Sec. 69. EFFECTIVE DATES

This act shall take effect on passage, except for Sec. 57 (16 V.S.A. § 2974) which shall take effect on July 1, 2022.