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S.91

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Introduced by Senators McCormack, Collins, Sears, and Zuckerman

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Referred to Committee on Education

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Date: February 8, 2013

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Subject: Education; independent schools; public funds; tuition; special

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education

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Statement of purpose of bill as introduced: This bill proposes to require that in

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order to receive publicly funded tuition dollars, an independent school shall be

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approved for special education in at least four categories and shall arrange for

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the provision of services in any other category, shall maintain a “blind

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admissions policy” for all publicly funded students, and shall meet other

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specific requirements. These requirements would not apply to an independent

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school that is not primarily intended for or attended by general education

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students or that does not receive publicly funded tuition dollars for more than

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one-third of the total number of enrolled students.

*An act relating to privatization of public schools*

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~~An act relating to public funding of some approved independent schools~~

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

1 ~~Sec. 1. 16 V.S.A. § 828 is amended to read:~~

2 § 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

3 (a) A school district shall not pay the tuition of a ~~pupil student~~ except to a  
4 public school, an approved independent school, an independent school meeting  
5 school quality standards, a tutorial program approved by the ~~state board~~ State  
6 Board, an approved education program, or an independent school in another  
7 state or country approved under the laws of that state or country, ~~nor shall~~  
8 ~~payment.~~

9 (b)(1) Notwithstanding subsection (a) of this section, a district shall pay  
10 tuition to an independent school within or outside of Vermont, including an  
11 approved independent school functioning as an approved area technical center,  
12 only if the school:

13 (A) does not determine or deny enrollment on the basis of race,  
14 creed, color, national origin, marital status, sex, sexual orientation, gender  
15 identity, or disability;

16 (B) maintains a “blind admissions policy” by accepting for admission  
17 on a space-available basis all publicly funded students who apply;

18 (C) is approved for special education purposes in at least four  
19 disability categories and arranges for the provision of special education  
20 services related to any other disability category if required in an enrolled  
21 student’s individualized education plan;

1 ~~(D) uses the assessment or assessments required under subdivision~~

2 ~~164(9) of this title to measure attainment of performance standards by all~~

3 ~~enrolled students and reports related data to the Secretary as requested;~~

4 ~~(E) provides free and reduced-price meals to enrolled students~~

5 ~~pursuant to section 1264 of this title; and~~

6 ~~(F) employs licensed teachers and administrators pursuant to section~~

7 ~~1692 of this title.~~

8 ~~(2) The provisions of subdivision (1) of this subsection shall not apply~~

9 ~~to an independent school that meets one or more of the following conditions:~~

10 ~~(A) The school is not primarily intended for or attended by general~~

11 ~~education students.~~

12 ~~(B) The tuition for no more than one-third of the total number of~~

13 ~~enrolled students, based on the average enrollment for the three prior years, is~~

14 ~~paid in whole or in part by one or more school districts.~~

15 ~~(c) Payment of tuition on behalf of a person shall not be denied on account~~

16 ~~of the basis of a student's age.~~

17 ~~(d) Unless otherwise provided, a person who is aggrieved by a decision of a~~

18 ~~school board relating to eligibility for tuition payments, the amount of tuition~~

19 ~~payable, or the school he or she may attend, may appeal to the state board State~~

20 ~~Board, and its decision shall be final.~~

1 ~~Sec. 2. 16 V.S.A. § 166(e) is amended to read:~~

2 ~~(e) The As required in chapter 9, subchapter 5 of this title, the board of~~  
3 ~~trustees of an approved or recognized independent school operating in~~  
4 ~~Vermont shall adopt harassment ~~and~~, hazing, and bullying prevention policies;~~  
5 ~~establish procedures for dealing with harassment ~~and~~, hazing, and bullying of~~  
6 ~~students; and provide notice of ~~these~~. ~~The provisions of section 565 of this~~~~  
7 ~~title for public schools shall apply to this subsection, except that the board the~~  
8 ~~policies and procedures. The board of trustees shall follow its own procedures~~  
9 ~~for adopting policy.~~

10 Sec. 3. 16 V.S.A. § 166(g) is amended to read:

11 ~~(g) An approved independent school which accepts students for whom the~~  
12 ~~district of residence pays tuition under chapter 21 of this title shall use the~~  
13 ~~assessment or assessments required under subdivision 164(9) of this title to~~  
14 ~~measure attainment of standards for student performance of those pupils. In~~  
15 ~~addition the school shall provide data related to the assessment or assessments~~  
16 ~~as required by the commissioner. [Repealed.]~~

17 Sec. 4. EFFECTIVE DATE

18 ~~This act shall take effect on July 1, 2013 and shall apply to tuition paid for~~  
19 ~~the 2014-2015 academic year and after.~~

*Sec. 1. PRIVATIZATION OF PUBLIC SCHOOLS; MORATORIUM; REPEAL*

*(a) Privatization of public school. Notwithstanding the authority of a school district to cease operating an elementary or secondary school and to begin paying tuition on behalf of its resident students, a school district shall*

not cease operation of a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students.

(b) State Board approval. The State Board of Education shall not approve an independent school under 16 V.S.A. § 166 if, on or after the effective date of this act, a school district votes to cease operating a school that at the time of the vote serves essentially the same population of students as the independent school proposes to serve and is located in the building or buildings in which the independent school proposes to operate.

(c) Publicly funded tuition. An approved independent school shall not be eligible to receive publicly funded tuition dollars if, on or after the effective date of this act, a school district votes to cease operating a school that at the time of the vote serves essentially the same population of students as the independent school proposes to serve and is located in the building or buildings in which the independent school proposes to operate.

(d) Repeal. This section is repealed on July 1, 2016.

~~Sec. 2. SECRETARY OF EDUCATION; PRIVATIZATION STUDY; REPORT~~

~~(a) The Secretary of Education shall research the constitutional and other legal consequences of a school district's decision to cease operating a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students. Among other issues, the Secretary shall examine federal civil rights law and the Vermont Supreme Court's decision in Brigham v. State and shall consider issues of delegation of authority and the proper use of State funds.~~

~~(b) On or before January 15, 2015, the Secretary shall report the results of the research required by this section to the Senate and House Committees on Education, together with any recommendations for legislative amendments.~~

Sec. 2. SECRETARY OF EDUCATION; PRIVATIZATION STUDY; REPORT

(a) The Secretary of Education shall research:

(1) the constitutional and other legal consequences of a school district's decision to cease operating a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students (privatization); and

(2) the constitutional and other legal consequences if the General Assembly chose to prohibit privatization of public schools.

(b) Among other issues, the Secretary shall examine the Vermont and U.S. Constitutions, federal civil rights law, and the Vermont Supreme Court's decision in Brigham v. State and shall consider issues of delegation of authority and the proper use of State funds.

(c) On or before January 15, 2015, the Secretary shall report the results of the research required by this section to the Senate and House Committees on Education and on Judiciary, together with any recommendations for legislative amendments.

*Sec. 3. EFFECTIVE DATE*

*This act shall take effect on passage.*