

1 S.44

2 Introduced by Senators McCormack, Giard and MacDonald

3 Referred to Committee on

4 Date:

5 Subject: Education; independent schools; qualifications; public funding

6 Statement of purpose: This bill proposes to require independent schools to
7 comply with requirements relating to school quality, the provision of special
8 education, and other issues imposed on public schools in order to receive
9 public funding.

10 An act relating to public funding of independent schools

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

12 Sec. 1. 16 V.S.A. § 11 is amended to read:

13 § 11. CLASSIFICATIONS AND DEFINITIONS

14 (a) For the purposes of this title, unless the context otherwise clearly
15 requires:

16 * * *

17 (8) "Independent school" means a school other than a public school,
18 ~~which~~ that provides a program of elementary or secondary education, or both.

19 ~~An "independent school meeting school quality standards" means an~~

1 ~~independent school in Vermont which undergoes the school quality standards~~
2 ~~process and meets the requirements of subsection 165(b) of this title.~~

3 * * *

4 (19) "Recognized independent school" for any school year means an
5 independent school ~~which~~ that meets the requirements for recognized
6 independent schools in section 166 of this title and ~~which~~ that is not a home
7 study program.

8 (20) "Approved independent school" means an independent school
9 ~~which~~ that is approved under section 166 of this title, and includes an approved
10 independent school in Vermont functioning as an area technical center.

11 * * *

12 Sec. 2. 16 V.S.A. § 166 is amended to read:

13 § 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

14 (a) An independent school may operate and provide elementary education
15 or secondary education if it is either approved or recognized as set forth herein.

16 (b) Approved independent schools. ~~On~~

17 (1) Except as provided in subdivision (7) of this subsection, on
18 application and pursuant to a process established by state board rule, the state
19 board shall approve an independent school ~~which~~ that offers elementary or
20 secondary education if it finds, after opportunity for hearing, that the school
21 ~~provides a minimum course of study and that it substantially complies with the~~

1 ~~board's rules for approved independent schools. Except as provided in~~
2 ~~subdivision (6) of this subsection, the board's rules must at minimum require~~
3 ~~that the school:~~

4 (A) has the resources required to meet its stated objectives, including
5 financial capacity; ;

6 (B) has faculty who are qualified by training and experience in the
7 areas in which they are assigned, ~~and~~ ;

8 (C) has physical facilities and special services ~~that are in accordance~~
9 ~~with any~~ required by state or federal law or regulation;

10 (D) does not determine or deny enrollment on the basis of race,
11 creed, color, national origin, sexual orientation, or disability; and

12 (E) complies with:

13 (i) section 165 of this title (school quality standards; equal
14 educational opportunities);

15 (ii) subdivision 164(9) of this title (assessment of student
16 performance);

17 (iii) all state and federal requirements relating to meeting the
18 unique educational needs of children with disabilities, including the provisions
19 of chapter 101 of this title;

20 (iv) all state and federal requirements relating to health, safety,
21 and civil rights that apply to Vermont public schools;

1 (v) all state requirements related to the disbursement and
2 accounting of funds by Vermont public schools;

3 (vi) subchapter 3 of chapter 25 of this title (compulsory
4 attendance); and

5 (vii) any other federal requirement relating to public schools.

6 ~~Approval may be granted without state board evaluation in the case of any~~
7 ~~school accredited by a private, state, or regional agency recognized by the state~~
8 ~~board for accrediting purposes.~~

9 ~~(1)~~(2) On application, the state board shall approve an independent
10 school ~~which~~ that offers kindergarten but no other graded education if it finds,
11 after opportunity for hearing, that the school substantially complies with the
12 board's rules for approved independent kindergartens pursuant to subdivision
13 (1) of this subsection. The state board may delegate to another state agency the
14 authority to evaluate the safety and adequacy of the buildings in which
15 kindergartens are conducted, but shall consider all findings and
16 recommendations of any such agency in making its approval decision.

17 ~~(2)~~(3) Approvals under this section shall be for a term established by
18 rule of the board but not greater than five years.

19 ~~(3)~~(4) An approved independent school shall provide to the parent or
20 guardian responsible for each of its pupils, prior to accepting any money for
21 that pupil, an accurate statement in writing of its status under this section, and

1 a copy of this section. Failure to comply with this provision may create a
2 permissible inference of false advertising in violation of 13 V.S.A. § 2005.

3 ~~(4)~~(5) Each approved independent school shall provide to the
4 commissioner on October 1 of each year the names, genders, dates of birth,
5 and addresses of its enrolled pupils. Within seven days of the termination of a
6 pupil's enrollment, the approved independent school shall notify the
7 commissioner of the name and address of the pupil. The commissioner shall
8 forthwith notify the appropriate school officials as provided in section 1126 of
9 this title.

10 ~~(5)~~(6) The state board may revoke or suspend the approval of an
11 approved independent school, after opportunity for hearing, for substantial
12 failure to comply with ~~the minimum course of study, for failure to comply with~~
13 ~~the board's rules for approved independent schools, or for failure to report~~
14 ~~under subdivision (b)(4) of this section~~ any provision of this subsection or
15 related board rule. Upon revocation or suspension, students required to attend
16 school who are enrolled in that school shall become truant unless they enroll in
17 an approved public school, an approved or recognized independent school, or
18 an approved home instruction program.

19 ~~(6)~~(7) This subdivision applies to an independent school located in
20 Vermont that offers a distance learning program and that, because of its
21 structure, does not meet some or all the rules of the state board for approved

1 independent schools. In order to be approved under this subdivision, a school
2 shall meet the standards adopted by rule of the state board for approved
3 independent schools that can be applied to the applicant school and any other
4 standards or rules adopted by the state board regarding these types of schools.
5 A school approved under this subdivision shall not be eligible to receive tuition
6 payments from public school districts under chapter 21 of this title.

7 ~~(7)~~(8) Approval for independent residential schools under this
8 subsection is also contingent upon proof of the school's satisfactory
9 completion of an annual fire safety inspection by the department of public
10 safety or its designee pursuant to subchapter 2 of chapter 173 of Title 20. A
11 certificate executed by the inspecting entity, declaring satisfactory completion
12 of the inspection and identifying the date by which a new inspection must
13 occur, shall be posted at the school in a public location. The school shall
14 provide a copy of the certificate to the commissioner of education after each
15 annual inspection. The school shall pay the actual cost of the inspection unless
16 waived or reduced by the inspecting entity.

17 * * *

18 (d) Council of independent schools. A council of independent schools is
19 created consisting of ~~eleven~~ 11 members, no fewer than three of whom shall be
20 representatives of recognized independent schools. The commissioner shall
21 appoint nine members from within the independent schools' community. The

1 commissioner shall appoint two members from the public-at-large. Each
2 member shall serve for two years and may be reappointed for up to an
3 additional two terms, ~~except that five of the first eleven appointments shall be~~
4 ~~for an initial term of one year.~~ The council shall ~~hold its organizational~~
5 ~~meeting before March 1, 1990 at the call of the commissioner and shall~~ adopt
6 rules for its own operation. A chair shall be elected by and from among the
7 members. The duties of the council shall include advising the commissioner
8 on policies and procedures with respect to independent schools. No hearing
9 shall be initiated before the state board or by the commissioner under this
10 section until the recommendations of the council have been sought and
11 received. The recommendations of the advisory council, including any
12 minority reports, shall be admissible at the hearing.

13 (e) The board of trustees of an independent school operating in Vermont
14 shall adopt harassment and hazing prevention policies, establish procedures for
15 dealing with harassment and hazing of students and provide notice of these.
16 The provisions of section 565 of this title for public schools shall apply to this
17 subsection, except that the board shall follow its own procedures for adopting
18 policy.

19 (f) An approved independent school ~~which~~ that accepts students for whom
20 the district of residence pays tuition under chapter 21 of this title shall bill the

1 sending district monthly for a state-placed student and shall not bill the sending
2 district for any month in which the state-placed student was not enrolled.

3 (g) An approved independent school ~~which~~ that accepts students for whom
4 the district of residence pays tuition under chapter 21 of this title shall use the
5 assessment or assessments required under subdivision 164(9) of this title to
6 measure attainment of standards for student performance of ~~these~~ all pupils
7 enrolled in the school, regardless of the source of tuition. In addition the
8 school shall provide data related to the assessment or assessments as required
9 by the commissioner.

10 Sec. 3. 16 V.S.A. chapter 21 is amended to read:

11 CHAPTER 21. MAINTENANCE OF PUBLIC SCHOOLS

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

14 * * *

15 (d) Notwithstanding subsection (a) of this section, the electorate of a school
16 district that does not maintain an elementary school may grant general
17 authority to the school board to pay tuition for an elementary pupil at an
18 approved independent elementary school pursuant to sections 823 and 828 of
19 this chapter upon notice given by the pupil's parent or legal guardian before
20 April 15 for the next academic year; ~~provided the board shall pay tuition for~~
21 ~~the pupil in an amount not to exceed the least of:~~

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

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

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

8 § 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR
9 PAY TUITION

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

13 (1) The electorate authorizes the school board to close an existing high
14 school and to provide for the high school education of its pupils by paying
15 tuition in accordance with law. Tuition for its pupils shall be paid to a public
16 high school, or an approved independent high school, or an independent school
17 ~~meeting school quality standards pursuant to sections 824 and 828 of this~~
18 chapter, to be selected by the parents or guardians of the pupil, within or
19 without the state; or

20 (2) The school district is organized to provide only elementary
21 education for its pupils.

1 (b) For purposes of this section, a school district ~~which~~ that provides,
2 furnishes and maintains a program of education for the first eight years of
3 compulsory school attendance shall be obligated to pay tuition for its pupils for
4 at least four additional years.

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

12 § 823. ELEMENTARY TUITION

13 * * *

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

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

20 (2) the tuition charged by the approved independent school for the year
21 of attendance; and

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

6 § 824. HIGH SCHOOL TUITION

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

9 (b) Except as otherwise provided for technical students, the district shall
10 pay the full tuition charged its pupils attending a public high school in
11 Vermont or an adjoining state or a public or approved independent school in
12 Vermont functioning as an approved area technical center, ~~or an independent~~
13 ~~school meeting school quality standards~~; provided:

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

19 (2) Notwithstanding the provisions of this subsection or of subsection
20 825(b) of this title, the board of the receiving public school district, or the
21 public or approved independent school functioning as an area technical center,

1 ~~or independent school meeting school quality standards~~ may enter into tuition
2 agreements with the boards of sending districts that have terms differing from
3 the provisions of those subsections, provided that the receiving district or
4 school must offer identical terms to all sending districts, and further provided
5 that the statutory provisions apply to any sending district that declines the
6 offered terms.

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

12 * * *

13 § 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

14 (a) A school board, or the board of trustees of an approved independent
15 school ~~meeting school quality standards~~ functioning as an area technical center
16 that proposes to increase tuition charges shall notify the school board of the
17 school district from which its nonresident pupils come, and the commissioner,
18 of the proposed increase on or before January 15 in any year; such increases
19 shall not become effective without the notice and not until the following school
20 year.

1 (b) A school board or the board of trustees of an approved independent
2 school ~~meeting school quality standards~~ functioning as an area technical center
3 may establish a separate tuition for one or more special education programs.

4 No such tuition shall be established unless the state board has by rule defined
5 the program as of a type which may be funded by a separate tuition. Any such
6 tuition shall be announced in accordance with the provisions of subsection (a)
7 of this section. The amount of tuition shall reflect the net cost per pupil in the
8 program. The announcement of tuition shall describe the special education
9 services included or excluded from coverage. Tuition for part-time pupils shall
10 be reduced proportionally.

11 * * *

12 § 828. TUITION TO APPROVED SCHOOLS, AGE, APPEAL

13 A school district shall not pay the tuition of a pupil except to a public
14 school, an approved independent school, including an approved independent
15 school in Vermont functioning as an area technical center, an independent
16 ~~school meeting school quality standards~~, a tutorial program approved by the
17 state board, an approved education program, or an independent school in
18 another state or country approved under the laws of that state or country, ~~nor~~
19 ~~shall payment.~~ Payment of tuition on behalf of a person shall not be denied on
20 account of age. Unless otherwise provided, a person who is aggrieved by a
21 decision of a school board relating to eligibility for tuition payments, the

1 amount of tuition payable, or the school he or she may attend, may appeal to
2 the state board and its decision shall be final.

3 * * *

4 Sec. 4. RULES

5 Pursuant to chapter 25 of Title 3, the state board of education shall review
6 and update its rules regarding approved independent schools to conform with
7 the requirements of this act. The rules shall be in effect no later than
8 December 31, 2011.

9 Sec. 5. EFFECTIVE DATE; TRANSITION

10 (a) This act shall take effect on July 1, 2011, but shall apply to tuition
11 payments beginning in the 2013–2014 academic year.

12 (b) A school that is an approved independent school on June 30, 2011 shall
13 have one year from the effective date of the rules required in Sec. 4 of this act
14 to achieve full compliance with those rules and this act.