

# Report on Act 174 of 2014

## Section 67(a) Tuition Report

**REPORT**

January 15,  
2015

**Report to the General Assembly on the Current  
System of Setting, Paying and Receiving School  
Tuition in Vermont**



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ACT 174 SECTION 67(a)

The Agency of Education shall report to the General Assembly on the current system of setting, paying, and receiving school tuition in Vermont. The report shall be submitted to the General Assembly on or before January 15, 2015. To view the complete legislative language, go to: <http://legislature.vermont.gov/assets/Documents/2014/Docs/ACTS/ACT174/ACT174%20As%20Enacted.pdf>.

ACT 174 SECTION 67(b)(1)

The report shall review the historic practices of Vermont school districts in paying tuition to other schools.

ELEMENTARY TUITION:

Each school district in Vermont is required to provide elementary education programming to its resident students either directly, through the operation of one or more schools, or indirectly, through the payment of tuition to one or more public elementary school districts as authorized by the electorate<sup>1</sup>.

The electorate of a district that does not directly provide elementary education programming may also provide the district board the general authority to pay tuition to an approved independent elementary school or an independent school meeting school quality standards if the student's parent or guardian provides notice prior to April 15<sup>th</sup> for the next academic year.<sup>2</sup>

School boards of districts operating their own elementary school are provided the statutory discretion to pay tuition to an adjacent school district if it finds, upon request of the parent or guardian, that geographic considerations make it more convenient for the student to attend a school in the adjacent district. The parent or guardian may appeal a board decision to the Secretary of Education and the Secretary may order the board to pay all, some or none of the tuition and that decision is final<sup>3</sup>.

Districts choosing to pay tuition to another public elementary school are required to pay the full amount invoiced by the receiving district<sup>4</sup>. This amount can never be greater than the current number of student FTE's in attendance at the receiving district multiplied by the receiving district's prior year student FTE tuition rate unless the receiving district has provided notice of any tuition rate increase to the tuition paying district and the Secretary of Education no later

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<sup>1</sup> 16 V.S.A. 821(a)(1). Subsection (a)(2) exempts those districts that are organized solely for the provision of secondary education programming, such as union high school districts. Subsection (a)(3) allows for exemptions provided by the General Assembly.

<sup>2</sup> 16 V.S.A. 821(d).

<sup>3</sup> 16 V.S.A. 821(c).

<sup>4</sup> 16 V.S.A 823(a) and 16 V.S.A. 835.

than January 15<sup>th</sup> of the prior fiscal year<sup>5</sup>. If an increase was properly disclosed then the receiving district may charge the tuition paying district an amount based upon the updated rate.

The Agency of Education uses the receiving school district's prior year actual financial data, provided pursuant to 16 V.S.A. 242(4)(C), to determine the district's actual net cost per pupil as defined by 16 V.S.A. 825 and Vermont State Board of Education Rule 9100. The net cost per pupil represents the maximum amount, per student FTE, the district was allowed to charge a tuition paying district in the prior fiscal year and is published on the Agency's website no later than November 1 of the current fiscal year<sup>6</sup>.

The tuition receiving districts use this figure to reconcile the amount actually charged per student FTE to the amount they were allowed to charge. If the receiving district overcharged a tuition paying district an amount, per student FTE, that was 3% or less of the allowable amount then no further action is required by the receiving district.

If the overcharge, per student FTE, exceeded 3% then the receiving district must provide a credit against the current year's tuition invoice in an amount equal to the prior year's student FTE multiplied by the amount by which the prior year's per student FTE tuition rate exceeded the 3% threshold. If the tuition paying district is not sending enough students in the current fiscal year to fully apply the credit against the current year's tuition invoice then the receiving district must provide a cash refund to the tuition paying district no later than July 31<sup>st</sup> of the next fiscal year to avoid interest penalties<sup>7</sup>.

For example:

- A) Actual Student FTE from Tuition Paying District = 10.
- B) Actual Tuition Charged/FTE = \$25,000.
- C) Allowable Tuition Charged/FTE = \$20,000.
- D) 3% Overcharge Threshold/FTE =  $[C * 1.03] = [\$20,000 * 1.03] = \$20,600$ .
- E) Total Credit or Refund Owed/FTE =  $[B - D] = [\$25,000 - \$20,600] = \$4,400$ .
- F) Total Credit or Refund Payable =  $[E * A] = [\$4,400 * 10] = \$44,000$ .

If the receiving district undercharged the tuition paying district an amount, per student FTE, that was 3% or less than the amount allowable per student FTE, no further action is required by the tuition paying district. If the undercharge exceeded 3% then the tuition paying district must pay an amount equal to their prior year student FTE multiplied by the amount by which the

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<sup>5</sup> 16 V.S.A. 826(a)

<sup>6</sup> 16 V.S.A. 836(a).

<sup>7</sup> 16 V.S.A. 836(b).

actual tuition charge exceeded the 3% threshold up to a maximum of 10%<sup>8</sup>. Payment must be received no later than July 31<sup>st</sup> of the next fiscal year to avoid interest penalties<sup>9</sup>.

For example:

- A) Actual Student FTE from Tuition Paying District = 10.
- B) Actual Tuition Charged/FTE = \$15,000.
- C) Allowable Tuition Charged/FTE = \$20,000.
- D) 3% Undercharge Threshold/FTE =  $[C * 0.97] = [\$20,000 * 0.97] = \$19,400$ .
- E) 10% Maximum Payable Threshold/FTE =  $[C * 0.9] = [\$20,000 * 0.9] = \$18,000$
- F) Maximum Payment Due/FTE =  $[D - E] = \$19,400 - \$18,000 = \$1,400$ .
- G) Total Undercharge Receivable =  $[F * A] = [\$1,400 * 10] = \$14,000$ .

16 V.S.A. Section 823(a) allows receiving districts to enter into alternative tuition arrangements with each of its tuition paying districts as long as the terms offered to one sending district are offered to all sending districts. Any tuition paying district choosing not to accept the optional terms and conditions is bound by to the statutory provisions and state board rules, as is the receiving district.

Districts choosing to send their resident students to an approved independent school or an independent school meeting school quality standards cannot pay more, per student FTE, than the least cost option listed below; unless the electorate has approved payment of a greater amount<sup>10</sup>:

- 1) the average announced tuition of Vermont union elementary schools for the year of attendance;
- 2) the tuition charged by the approved independent school for the year of attendance; or
- 3) the average per-pupil tuition the district pays for its other resident elementary pupils in the year in which the pupil is enrolled in the approved independent school.

The Agency of Education publishes the average announced tuition of Vermont union elementary schools on its website each year. This number is determined based upon the data submitted to the Agency per 16 V.S.A. 826.

School districts can only pay tuition to approved private kindergartens pursuant to Vermont State Board of Education Rule 2270.

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<sup>8</sup> 16 V.S.A. 836(c).

<sup>9</sup> See footnote 8.

<sup>10</sup> 16 V.S.A. 823(b)

SECONDARY TUITION:

Each school district in Vermont is required to provide secondary education programming to its resident students either directly, through the operation of one or more schools, or indirectly, through the payment of tuition as authorized by the electorate<sup>1112</sup>. Districts choosing not to operate a school may designate a public or approved independent school to be their public high school<sup>13</sup> and, if the designated school agrees to the terms and conditions of the tuition paying district, tuition shall be paid solely to that school in accordance with 16 V.S.A. 824(b)<sup>14</sup>.

Parents and guardians may, on or before April 15<sup>th</sup> for the next academic year, request that the school board pay tuition to another public or approved independent school, other than the district designated school, if the parent or guardian is dissatisfied with the instruction the designated school provides; the designated school fails to offer the courses or type of instruction desired; or the student could be better accommodated in a school closer to their home<sup>15</sup>. The board determines whether the requested public or approved independent school best serves the interest of the student and exercises final discretion as to whether tuition shall be paid<sup>16</sup>. If the board agrees to the parent or guardian's request; the maximum tuition the board may pay to the non-designated school is the least of<sup>17</sup>:

- 1) the statewide average announced tuition of Vermont union high schools<sup>18</sup>,
- 2) the per-pupil tuition the district pays to the designated school in the year in which the pupil is enrolled in the non-designated school, or
- 3) the tuition charged by the approved non-designated school in the year in which the pupil is enrolled.

If a secondary school district chooses not to operate a school nor designate a school as their public high school, then the parents of the resident student may choose any public high school, approved independent high school or independent school meeting school quality standards inside or outside of Vermont<sup>19</sup>. If a parent chooses to send their child to another Vermont public school or an independent school meeting school quality standards then the tuition paying

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<sup>11</sup> 16 V.S.A. 822(a)(1) and 824(a). Section 822(a)(2) provides an exemption to those districts, such as union elementary districts, that are organized to provide only elementary education services. Section 822(b) provides clarification that a district providing the first eight years of compulsory education is still required to pay tuition for its resident pupils for no less than an additional four years.

<sup>12</sup> Vermont State Board of Education Rules 2224 and 7320 limit the tuition options to parents, school boards and electorates unless granted a section 1260 waiver.

<sup>13</sup> 16 V.S.A. 827(a)

<sup>14</sup> 16 V.S.A. 827(b)

<sup>15</sup> 16 V.S.A. 827(c)

<sup>16</sup> 16 V.S.A. 827(d)

<sup>17</sup> 16 V.S.A. 827(e) provides some exemptions from the general statutory provisions to the Pawlet, Rupert, Wells and Strafford school districts.

<sup>18</sup> The Agency of Education annually publishes this information on its website and is derived from the data provided per 16 V.S.A. 826.

<sup>19</sup> 16 V.S.A. 822(a)(1) (subject to Vermont State Board Rule 2224 and 7320 unless granted a section 2360 waiver)

school is required to pay the full tuition disclosed per 16 V.S.A. 826; subject to the 16 V.S.A. 836 reconciliation procedures, detailed above, regarding net cost per pupil<sup>20</sup>.

If a parent chooses to send their child to a public or approved independent school in Vermont that functions as an approved area technical center or if the parent chooses to send their child to a public school outside Vermont then the tuition paying district must pay the full tuition amount<sup>21</sup>. These schools are not subject to the net cost per pupil reconciliation provisions or the statewide average announced tuition of Vermont union high schools.

16 V.S.A. 824(b)(2) provides a general exemption from all statutory tuition provisions to the receiving district boards of Vermont public school districts, public or approved independent schools functioning as area tech centers and independent schools meeting school quality standards. The exemption allows these schools to enter into agreements with tuition paying districts that have terms differing from the statutory provisions as long as those terms are offered to all sending districts and any sending district choosing not to accept the alternative provisions remains subject to the statutory requirements.

If a parent chooses to send their child to an approved independent school, inside or outside of Vermont, the district of residence may pay no more than the average announced tuition of Vermont union high schools for the year its resident student is in attendance at the approved independent school, unless the electorate has approved payment of a greater amount<sup>22</sup>.

A district that chooses to operate a school may still pay tuition to another public school if the board determines doing so would best serve the student's interest<sup>23</sup> or if a tuition agreement has been reached between the sending and receiving districts under a school choice arrangement<sup>24</sup>. Operating districts may also pay tuition to an approved independent school or independent school meeting school quality standards if the board determines that the student's unique educational needs cannot be served within the district or at a nearby public school and the board's decision is final<sup>25</sup>.

Children temporarily residing in a Vermont school district, from outside the state, due to parental or guardian deployment in the uniformed armed services<sup>26</sup> may continue to attend the school in which they were enrolled while residing in Vermont. If the student chooses to attend school in the Vermont district, the district is prohibited from charging the non-Vermont district tuition per 16 V.S.A. 806e(A)(2) & (3). Likewise, Vermont districts are not obligated to pay tuition to an out-of-state school district nor can an out-of-state school district compel attendance

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<sup>20</sup> 16 V.S.A. 824(b)(2)

<sup>21</sup> 16 V.S.A. 824(b)

<sup>22</sup> 16 V.S.A. 824(c)

<sup>23</sup> 16 V.S.A. 822(c)

<sup>24</sup> 16 V.S.A. 822a(g)(1)

<sup>25</sup> See footnote 21.

<sup>26</sup> 16 V.S.A. 806a(R) also includes the National Oceanic and Atmospheric Administration and the Public Health Services.

at its school for a Vermont student temporarily residing in the out-of-state district due to parental or guardian deployment. This applies to all PK – 12 students.

### TECHNICAL TUITION

Each Vermont school district is required to pay an FTE prorated tuition<sup>27</sup> to the technical center in which their resident secondary technical students<sup>28</sup> are enrolled. The amount to be paid<sup>29</sup>, per FTE, is provided to each tuition-paying district and the Agency of Education<sup>30</sup> from the receiving district no later than February 1 of the preceding fiscal year<sup>31</sup> and published on the Vermont Agency of Education website.

Vermont sending districts are assessed their share of technical education costs by multiplying the tuition per student by their prior 6 semester average student FTE enrollment at the technical center<sup>32</sup>. This amount must be paid within 20 days of the receipt of a tuition paying district's education spending grant<sup>33</sup>.

Technical tuition payments are subject to the same reconciliation procedures detailed above with the exception that no maximum payment for undercharges by the receiving district, from the tuition paying districts, exists<sup>34</sup>.

Districts sending students to out-of-state technical centers<sup>35</sup>, post-secondary technical programs<sup>36</sup>, SU collaborative tech programs<sup>37</sup> or comprehensive high schools<sup>38</sup> are exempt from the general technical tuition provisions. These districts pay the full tuition rate per FTE on the current FTE enrollment and are not subject to the net cost per pupil reconciliation procedures provided above. The only exception to this exemption is that publicly funded comprehensive high schools are subject to the net cost per pupil procedures since they cannot set an independent tech tuition amount<sup>39</sup>.

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<sup>27</sup> 16 V.S.A. 1552(a)

<sup>28</sup> 16 V.S.A. 1522(1) defines a secondary technical student as a resident of this state, of any age, who has not completed high school and is enrolled in a secondary technical education program.

<sup>29</sup> 16 V.S.A. 1541(d)(1)

<sup>30</sup> 16 V.S.A. 1568(a)

<sup>31</sup> Vermont State Board Rule 2391.8

<sup>32</sup> Vermont State Board Rule 2391.6

<sup>33</sup> Vermont State Board Rule 2392.2

<sup>34</sup> Vermont State Board Rule 2393

<sup>35</sup> 16 V.S.A. 1531(c) and Vermont State Board Rule 2394.2

<sup>36</sup> 16 V.S.A. 1593 and Vermont State Board Rule 2394.3

<sup>37</sup> 16 V.S.A. 267 and Vermont State Board Rule 2398

<sup>38</sup> 16 V.S.A. 1546 and Vermont State Board Rule 2394.1

<sup>39</sup> 16 V.S.A. 1546(b) and Vermont State Board Rule 2394.1.A

### DUAL ENROLLMENT TUITION

Vermont secondary school districts are required to pay tuition to the University of Vermont or the Vermont State Colleges for any students engaged in their dual enrollment programs. The district pays the institution an amount equal to the Community College of Vermont's (CCV) current tuition per student for each student enrolled if the instructor is employed by the post-secondary institution or 20% of the CCV rate if the school district employs the instructor. If the student is enrolled at CCV then the district pays 90% of the CCV rate if CCV employs the instructor<sup>40</sup>.

The State of Vermont pays up to 50% of the tuition due to the University of Vermont and the Vermont State Colleges, from Vermont school districts, for dual enrollment courses provided by post-secondary institution employees to students taking two courses or less; provided sufficient funding exists<sup>41</sup>.

School districts are allowed to enter into agreements with accredited institutions other than the University of Vermont and the Vermont State Colleges and to pay for more than 2 courses per student. These arrangements are at the district's discretion and are not eligible for the 50% State offset<sup>42</sup>.

### SPECIAL EDUCATION TUITION

Districts with students on an individualized education plan (IEP) receiving special education services through a collaborative program<sup>43</sup> pay the net cost per student FTE tuition rate provided to the district by the collaborative program<sup>44</sup> on a FTE prorated basis<sup>45</sup> for the total number of student FTE's enrolled. Vermont State Board Rule 2366.6.2(c) requires the collaborative to itemize the tuition services being provided and their associated costs so districts may claim State reimbursement for those actual expenditures eligible under Vermont's funding formula<sup>46</sup> once the final rates have been determined.

Districts paying tuition to other school districts or supervisory unions operating self-contained special education programs are subject to the same rules applicable to special education collaborative programs<sup>47</sup>. The only exception is that final rates cannot exceed the initial rate provided to the tuition paying districts and Agency of Education<sup>48</sup> per 16 V.S.A. 826(a). If the

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<sup>40</sup> 16 V.S.A. 944(f)(1)(A) & (B)

<sup>41</sup> 16 V.S.A. 944(f)(2)

<sup>42</sup> 16 V.S.A. 944(g) & (h)

<sup>43</sup> 16 V.S.A. 267

<sup>44</sup> 16 V.S.A. 826(a) and Vermont State Board Rule 2366.6.2(b)

<sup>45</sup> Vermont State Board Rule 2366.6.2(d)

<sup>46</sup> Vermont State Board Rule 2366.6.2.1(f) & (e) and 2366.2.6(2)

<sup>47</sup> Vermont State Board Rule 2366.6.3(b)

<sup>48</sup> Vermont State Board Rule 2366.6.3(b)(2)

Agency of Education and tuition paying districts have not been notified of increases prior to January 16 of the prior fiscal year, the tuition paying district cannot pay more than the prior year tuition rate per student FTE multiplied by the current year's student FTE enrollment.

Tuition paying districts are only allowed to pay special education tuition to Vermont independent schools that have been approved by the Vermont State Board of Education to provide special education services and only for those services which the Board has authorized them to provide<sup>49</sup>. The tuition cannot exceed the amount approved by the Vermont Board of Education and must be part of a written agreement<sup>50</sup>.

Districts paying special education tuition to out-of-state independent schools can pay no more than the maximum amount authorized by the state in which the school is located and only for those services that state has authorized them to provide<sup>51</sup>. Exceptions are permitted if the Secretary of Education determines that exceptional circumstances warrant such payment or exceptional services are required.

School districts that do not operate a school, nor have designated a statutorily authorized alternative to serve as the district's public school, are required to pay tuition to the school selected by the student's IEP team or LEA representative if the IEP team cannot reach consensus<sup>52</sup>. A parent, however, may choose to send their child to a school other than that recommended by the IEP team or LEA representative. If the IEP team determines that the IEP can be adequately implemented at the school chosen by the parents and the parent has chosen another public school then the district must pay any tuition authorized by law<sup>53</sup> plus associated excess costs.

If the parent chooses an independent school approved for special education purposes that is generally attended by general education students that a non-special education student from the tuition paying district could choose to attend, then the tuition paying district must pay the actual costs associated with the parent's placement minus any costs that would accrue to the parents of a non-special education student attending the same school<sup>54</sup>. If the parent selects an independent school not generally attended by general education students and the school is approved for special education in the area of the child's disability, the district can pay no more than it would have paid had the student attended the school chosen by the IEP team.

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<sup>49</sup> Vermont State Board Rule 2228.2(1) This rule does allow for exceptions due to a court order (which must be referenced in the written agreement), due process order pursuant to Vermont State Board Rule 2364.3.5 or exceptional circumstances as determined by the Secretary of Education.

<sup>50</sup> 16 V.S.A. 2973(a) and Vermont State Board Rule 2366.2.5(b)

<sup>51</sup> 16 V.S.A. 2973(b) and Vermont State board Rule 2366.2.5(b)

<sup>52</sup> Vermont State Board Rule 2368.2(a)

<sup>53</sup> Vermont State Board Rule 2368.2(b)(1)

<sup>54</sup> Vermont State Board Rule 2368.2(b)(2)(i)

The district is not required to pay tuition to an independent school chosen by the parents if the IEP team concludes that the school is not approved for special education in the area of the child's disability.

## ACT 174 SECTION 67(b)(2)

**The report shall review the current law and practices for establishing tuition rates, including how tuition is paid to different categories of schools inside Vermont and outside Vermont, and how Vermont schools set, receive, and use tuition from schools outside the State.**

### ELEMENTARY & SECONDARY TUITION

Currently, there are no statutes or Vermont State Board of Education regulations requiring uniform procedures for establishing elementary and secondary tuition rates by tuition receiving districts. However, any rate charged to a tuition sending district is subject to the net cost per pupil reconciliation procedures detailed in the last section. In practice, therefore, districts prepare an annual expenditure budget based upon their needs and announce a tuition rate based upon that budget and its net cost per pupil.

Net cost per pupil is defined by statute under 16 V.S.A. 825 and Vermont State Board of Education regulation 9100. Districts begin by separating operating from capital expenditures. Current operating expenditures are defined as all annual payroll and contract services plus those for supplies and equipment<sup>55</sup>. This amount is reduced by non-instructional program expenditures such as food service, expenditures for self-supporting enterprise operations, adult and continuing education programs, any community service operating expenditures and capital expenditures paid from operating assets<sup>56</sup>; the result is termed current instructional expenditures.

Current instructional expenditures are further reduced by any reimbursable special education expenditures, area technical center expenditures including technical tuition payments, expenditures related to transporting resident students to and from school, other reimbursable transportation expenditures and the financing and maintenance costs associated with student boarding facilities<sup>57</sup>. Of the remaining expenditures, only those that are not financed with Federal or State categorical grants or offsetting local revenues are included in the Net Regular Education Elementary Current Instructional Cost. This amount is divided by the average annual full-time equivalent (FTE) student membership<sup>58</sup> in the regular education program to arrive at the Net Regular Education Current Instructional Cost per Pupil<sup>59</sup>.

The second piece of the Net Cost per Pupil determination involves capital expenditures. Long-Term Facility Costs are calculated by adding together all annual expenditures associated with the capital acquisition, construction and improvement of district facilities and sites plus the financing costs associated with these expenditures. As above, expenditures related to non-

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<sup>55</sup> Vermont State Board Rule 9104.4

<sup>56</sup> Vermont State Board Rule 9104.3

<sup>57</sup> Vermont State Board Rule 9104.2(a) & 16 V.S.A.825(a)

<sup>58</sup> FTE calculations are based upon Vermont State Board Rules 2300 and 9104.8 – 9104.11.

<sup>59</sup> Vermont State Board Rule 9104.1

instructional programs, self-supporting enterprise operations, adult & continuing education programs and community service operations are excluded<sup>60</sup>. These Long-Term Facility Costs are then reduced by any similar capital expenditures associated with area technical centers and student boarding facilities. Of the remaining expenditures, only those not financed by restricted local, state and federal revenues and borrowed assets are included in the Net Regular Education Long-Term Facility Cost<sup>61</sup>. This net expenditure amount is then divided by the same FTE amount used above to determine the Net Regular Education Long-Term Facility Cost per Pupil<sup>62</sup>.

Student membership forms the foundation for the full-time equivalent student calculation and is defined as the period of time a student's name is on the current roll of a class or school, while the school is in session, regardless of his or her presence or absence. A student is a member of a class or school from the date he or she enters until his or her name is withdrawn or removed from the rolls<sup>63</sup>. This number is adjusted to account for those students that are enrolled part-time, attend a portion of their time at another school or in another program (such as technical education) or withdraw from the rolls; the result is known as Full-Time Equivalent Student Membership<sup>64</sup>.

Full-Time Equivalent Student Membership is adjusted for periodic fluctuations to yield the Average Full-Time Equivalent Student Membership. This is accomplished by adding the Full-Time Equivalent Student Membership for each day and dividing by the number of days in the period. When this is applied to a school year, as defined by Vermont State Board Rule 2300, the result is the Average Annual Full-Time Equivalent Student Membership and this is the FTE used in the net cost per pupil calculation<sup>65</sup>. Districts estimate this number at the time they develop their budgets and use this estimate to determine the tuition rate they provide to the Agency and tuition paying districts per 16 V.S.A. 826. The Agency calculates the actual FTE based upon its student spring census data collection.

The Net Regular Education Current Instructional Cost per Pupil plus the Net Regular Education Long-Term Facility Cost per Pupil equal the Net Cost per Pupil. Again, districts provide an estimate of this number to the Agency of Education based upon their budgets. The Agency reconciles this number to the final net cost per pupil amount based upon the district's actual annual financial data. Any over or under charges to Vermont tuition paying districts are subject to the procedures provided in the last section.

16 V.S.A 825(b) further limits the receiving district's total tuition receipts from tuition paying districts such that the ratio of the total tuition received to the total cost of operation of the

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<sup>60</sup> Vermont State Board Rule 9104.7

<sup>61</sup> Vermont State Board Rule 9104.6

<sup>62</sup> Vermont State Board Rule 9104.5

<sup>63</sup> Vermont State Board Rule 9104.11

<sup>64</sup> Vermont State Board Rule 9104.10

<sup>65</sup> Vermont State Board Rules 9104.8 and 9104.9.

receiving school, or school district, cannot exceed the ratio of the number of tuition paying students to the total number of students enrolled in the receiving school or school district.

Given that no current statutes or regulations exist concerning the per student tuition rates applicable to out-of-state districts, the practice is to charge these districts the same rate as Vermont school districts. External districts are, however, not subject to the reconciliation procedures discussed above.

The tuition payments received from other school districts, both in-state and out-of-state, are accounted for as general fund sources and used by the district for general operations. In this respect, tuition receipts directly reduce a district's education spending, as defined by 16 V.S.A. 4001(6) and the corresponding tax rate applied to the district's equalized education grand list. Assuming all other variables remain constant, tuition receipts reduce the tax burden for a tuition receiving district's property tax payers.

### TECHNICAL CENTER TUITION

Each career technical center board is required to establish a tuition rate, per secondary student FTE that is based upon the actual costs of operating Vermont State Board of Education approved programs at the center<sup>66</sup>. Students from sending districts may take courses outside the technical education program, at the receiving school district, and those costs may be included in the technical tuition as long as the courses facilitate access to the technical education programs and all sending districts agree to the arrangement<sup>67</sup>. Costs shared by technical and other education programs; such as administrative, student and staff support services and building maintenance and operations must be allocated per Vermont State Board of Education Rule 2390.2 unless an alternative method has been agreed to by the district board and regional technical center board and notice provided to the Secretary of Education. Special Education costs are not included in the tuition calculation and are recovered, by technical centers, through the excess costs procedures set forth under Vermont State Board of Education Rule 2366.2<sup>68</sup>.

Once all relevant costs have been established the tech center begins the tuition calculation by reducing this amount by any anticipated federal funding sources supporting secondary technical education; state overhead, salary assistance and equipment grants; and program income and facility use charges<sup>69</sup>. These anticipated net costs are allocated between in-state and out-of-state districts on a percentage basis as follows<sup>70</sup>:

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<sup>66</sup> 16 V.S.A. 1552(a) and Vermont State Board of Education Rules 2375.2.L, 2391.1.B & 2391.2

<sup>67</sup> Vermont State Board of Education Rule 2391.1C

<sup>68</sup> Vermont State Board of Education Rule 2390.3

<sup>69</sup> Vermont State Board of Education Rule 2391.3.A

<sup>70</sup> 16 V.S.A. 1552(d) and Vermont State Board of Education Rule 2391.3.B

*Total Student FTE = Anticipated Out-of-State Student FTE + Prior 3 Year Average Vermont Student FTE*

*Out-of-State Costs = Anticipated Net Costs \* [Anticipated Out-of-State Student FTE/Total Student FTE]*

*In-State Costs = Anticipated Net Costs \* [Prior 3 Year Average Vermont Student FTE/Total Student FTE]*

Out-of-State Tuition is calculated as follows<sup>71</sup>:

*Out-of-State Tuition = Out-of-State Costs/Anticipated Out-of-State Student FTE*

In-State Tuition is calculated as follows<sup>72</sup>:

*Net In-State Costs = [In-State Costs] – [Prior 6 Semester Average Vermont Student FTE \* State On-Behalf Payment<sup>73</sup>] – [Prior 6 Semester Average Vermont Student FTE \* Supplemental Assistance Grant<sup>74</sup>]*

*In-State Tuition = Net In-State Costs/Prior 6 Semester Average Vermont Student FTE*

Tuition rates are determined by the board as part of their required budget process and subject to the reconciliation procedures discussed in the last section<sup>75</sup>. FTE is defined, by Vermont State Board of Education Rule 2370.9, as a student who is enrolled an average of at least two hundred forty minutes per day for a school year in a career and technical education program's course of study.

Tuition revenues received by technical centers, from in-state and out-of-state, are used to cover the general costs of operating the technical center programs. In essence, any expenditures not financed through inter-governmental sources or program income are paid for with tuition payments.

Comprehensive high schools include their technical education costs as part of their general expenditures and as such no separate tuition is assessed<sup>76</sup>.

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<sup>71</sup> Vermont State Board Rule 2391.4

<sup>72</sup> 16 V.S.A. 1552(c) & (d) and Vermont State Board Rules 2391.5 – 2391.7

<sup>73</sup> 16 V.S.A. 1561(b)

<sup>74</sup> 16 V.S.A. 1561(c)

<sup>75</sup> Vermont State Board of Education Rules 2375.2.B and 2393

<sup>76</sup> Vermont State Board of Education Rule 2394.1.A

## SPECIAL EDUCATION TUITION

16 V.S.A. 826(b) allows a school board or the board of trustees of an independent school meeting school quality standards to establish a separate tuition for one or more special education programs as long as the Vermont State Board of Education has authorized, by rule, the program as a type that may be funded by a separate tuition. This tuition must be prorated on an FTE basis and reflect the net cost per pupil as calculated for elementary and secondary tuition above. The Vermont State Board of Education has authorized supervisory union special education collaborative programs and school districts to establish separate tuition rates per this statute<sup>77</sup>.

Any special education tuition received by a Vermont school district, from in-state or out-of-state sources, is used to cover programmatic costs not funded by inter-governmental grants. In practice, districts generally charge the normal tuition rate and invoice sending districts for any excess costs per Vermont State Board of Education Rule 2366.6.4.

Currently no statutes or regulations exist defining the procedures an approved independent school must use to establish a special education tuition rate. 16 V.S.A. 2973 does, however, subject any proposed rates to review by the Vermont Secretary of Education. The Secretary determines whether the proposed rate is reasonable for the level of service being provided and sets the maximum tuition rates payable by the Vermont Agency of Education or any Vermont school district<sup>78</sup>. Disagreements regarding the maximum tuition are referred to the Vermont State Board of Education and the Board's decision is final<sup>79</sup>.

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<sup>77</sup> Vermont State Board of Education Rules 2366.6.1 and 2366.6.3

<sup>78</sup> Vermont State Board of Education Rules 2366.6.1 and 2228.8.2 and 2228.8.3

<sup>79</sup> Vermont State Board of Education Rule 2228.8.3

**ACT 174 SECTION 67(c)(1)**

**The report shall examine the impact, if any, of tuition rates and practices on the Education Fund.**

**TUITION RATES & PRACTICES**

16 V.S.A. 1 acknowledges a right to public education in Vermont. School districts, as defined by 16 V.S.A. 11(a)(10), are the statutorily recognized, special-purpose, local governments required to provide this public service<sup>80</sup>. Districts may provide education services directly through the operation of one or more schools or indirectly through the payment of tuition to other educational institutions. The option to provide these services through tuition payments directly impacts the Vermont State Education Fund when tuition is being paid to institutions other than Vermont school districts, excess capacity exists within the Vermont public school system and the marginal cost to the receiving Vermont districts is \$0; all other variables held constant.

16 V.S.A. 4025 established the Vermont State Education Fund to ensure that the quality of education received by a Vermont student was dependent upon the resources of the State and not the district within which the student resides. Local tuition decisions directly impact that district's education spending amount, as defined per 16 V.S.A. 4001(6), and this amount is paid for directly from the Vermont State Education Fund per 16 V.S.A. 4011(c). A tuition paying school district receives an education spending grant, from the Vermont State Education Fund, in an amount necessary to cover its net operating expenditures; including tuition.

If the district chooses to pay tuition to another Vermont school district the tuition expenditures of the tuition paying district become a source of funds to the tuition receiving district. This reduces the education spending grant the Vermont State Education Fund is required to provide the tuition receiving district because the education spending grant is based upon *net*, not total, expenditures. From the perspective of the Education Fund, all other variables held constant, the decision by one district to pay tuition to another Vermont school district represents a transfer of assets within the fund and not an expenditure from the fund.

FOR EXAMPLE:

	DISTRICT A	DISTRICT B	DISTRICT C
SERVICE METHOD	Operates a school	Pays Tuition	Operates a School
TOTAL EXPENDITURES	\$200,000	\$210,000	\$220,000
TUITION REVENUES	\$100,000	\$0	\$110,000

<sup>80</sup> 16 V.S.A. 821 and 16 V.S.A. 822.

EDUCATION SPENDING	\$100,000	\$210,000	\$110,000
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In this example, the State only needs \$420,000 of assets to pay the \$630,000 of district expenditures and fulfill its obligation to provide education services to those entitled. This occurs because the assets transferred from District B reduce the net operating costs of Districts A and C and, consequently, their respective education spending grants.

If a district chooses to pay tuition to an educational institution other than a Vermont school district then the Education Fund must absorb the total expenditures of all districts since no internal transfer of assets occurs. The greater the rate of tuition charged by institutions outside the Vermont public school system the greater the burden on the Education Fund.

FOR EXAMPLE:

	DISTRICT A	DISTRICT B	DISTRICT C	INDEPENDENT	OUT-OF-STATE
SERVICE METHOD	Operates a school	Pays Tuition	Operates a School	Operates a School	Operates a School
TOTAL EXPENDITURES	\$200,000	\$210,000	\$220,000	\$XXX,XXX	\$XXX,XXX
TUITION REVENUES	\$0	\$0	\$0	\$100,000	\$110,000
EDUCATION SPENDING	\$200,000	\$210,000	\$220,000	N/A	N/A

In this example, District B has chosen to pay tuition to an independent school<sup>81</sup> and an Out-of-State school<sup>82</sup>. The assets raised by District B are now provided to schools outside Vermont's public school system and, as such, the Education Fund must raise the full \$630,000 of assets to pay the \$630,000 of expenditures needed to fulfill its obligation to those entitled to a public education.

The examples provided above are simplified models imposed under specific conditions and used to convey a general principle. In reality, tuition practices and rates are dependent upon a multitude of variables each impacting the Education Fund differently (system capacity, distribution of a district's fixed and variable costs, the marginal costs and benefits associated with each district's decision to accept tuition students; etc).

Districts choosing to designate another Vermont school district as their public school reduce risk to the Education Fund. Receiving districts can more accurately project future enrollments

<sup>81</sup> In-State or Out-of-State is irrelevant to the Education Fund.

<sup>82</sup> Public or private is irrelevant to the Education Fund.

and, therefore, are better equipped to model future needs and invest resources appropriately. Receiving districts subject to annual uncertainty are less likely to invest in future capital assets or, if they do, expose themselves to greater tax volatility to meet fixed costs. Sending districts, under these same arrangements, only have to account for a single tuition rate per FTE and their exposure is limited by the net cost per pupil provisions detailed above. Again, this enables sending districts to better assess the tax impacts to their electorate and, when students attend districts where excess capacity exists, minimize the financial impact to the Education Fund.

Practices limiting the maximum tuition per student FTE, such as dual enrollment or attendance at independent schools, reduce the burden imposed upon the Education Fund since a district's education spending is limited. Technical education tuition practices, regarding out-of-state students, ensure non-Vermont institutions provide an equitable amount of resources per FTE and Vermont taxpayers do not subsidize non-Vermont students.

**ACT 174 SECTION 67(c)(2)**

**The report shall examine any effects that would result from establishing a uniform tuition rate to be paid for different categories of schools, both within and outside Vermont.**

The impact of a uniform tuition rate depends upon the financial characteristics of the districts involved. In general, a uniform tuition rate equal to the receiving school district’s average total cost of enrollment ensures an equitable distribution of fixed and variable costs between the tuition paying and tuition receiving districts. As the uniform tuition rate is reduced below this amount a larger portion of the costs are borne by the tuition receiving district. Although the distribution of costs is inequitable, a tuition receiving district may accept a lower tuition rate since the total burden on its taxpayers is still less than it would be without the tuition students. This remains true until the uniform tuition rate is set below the tuition receiving district’s average variable cost of enrollment<sup>83</sup>. At this point the tuition receiving district’s tax burden is greater than it would have been had it not accepted any tuition students. Districts operating under these circumstances will refuse to accept tuition students even though capacity exists.

If the uniform tuition rate is set at an amount greater than the receiving district’s total average cost of enrollment then the tuition paying district absorbs a greater share of the costs and pays an amount greater than \$1.00 for \$1.00 of benefits. Under these circumstances a tuition receiving district accepts the maximum number of tuition students<sup>84</sup> since each student received subsidizes district taxpayers. Tuition paying districts will continue to pay these rates until a less cost alternative is presented.

FOR EXAMPLE:

DISTRICT A	COSTS			AVERAGE COSTS			REVENUES		
	STUDENTS	FIXED	VARIABLE	TOTAL	FIXED	VARIABLE	TOTAL	TUITION	ESG
10	100,000	100,000	200,000	10,000	10,000	20,000	0	200,000	200,000
11	100,000	110,000	210,000	9,091	10,000	19,091	19,091	190,909	210,000
12	100,000	120,000	220,000	8,333	10,000	18,333	36,667	183,333	220,000
13	100,000	130,000	230,000	7,692	10,000	17,692	53,077	176,923	230,000
14	100,000	140,000	240,000	7,143	10,000	17,143	68,571	171,429	240,000
15	100,000	150,000	250,000	6,667	10,000	16,667	83,333	166,667	250,000

<sup>83</sup> This assumes marginal costs are held constant.

<sup>84</sup> Maximum number defined as the point at which marginal revenue (tuition) = marginal cost or maximum physical capacity is achieved.

District A has the physical capacity to provide education services to 15 students. Each student costs \$10,000 to educate above and beyond the existing \$100,000 of fixed costs. If the district has only 10 resident students then it must cover \$100,000 of fixed costs plus \$100,000 of variable costs for total costs of \$200,000. If the base education rate is \$10,000, the district cost per student is \$20,000 and the statewide homestead tax rate is \$1.00 then District A's homestead tax rate is equal to \$2.00 per \$100 of assessed value. A taxpayer in District A that owns a \$200,000 home would pay \$4,000 in property taxes to the Vermont State Education Fund<sup>85</sup>. The Education Fund would provide district A a \$200,000 Education Spending Grant.

If district A accepts 5 tuition paying students from district B its fixed costs remain \$100,000 but these costs are now divided among 15 students. The average fixed costs, therefore, decrease from \$10,000 per student to \$6,667. The distribution of fixed costs is equitable because the cost per student is equal for each district and each district pays only its share of the fixed costs for which its students receive a benefit. Marginal costs are constant and therefore the average cost per student remains \$10,000. The same taxpayer now only pays \$3,340 in education property taxes because a portion of the fixed costs are now paid by district B.

DISTRICT C	COSTS			AVERAGE COSTS			REVENUES		
	STUDENTS	FIXED	VARIABLE	TOTAL	FIXED	VARIABLE	TOTAL	TUITION	ESG
10	100,000	120,000	220,000	10,000	12,000	22,000	0	220,000	220,000
11	100,000	132,000	232,000	9,091	12,000	21,091	21,091	210,909	232,000
12	100,000	144,000	244,000	8,333	12,000	20,333	40,667	203,333	244,000
13	100,000	156,000	256,000	7,692	12,000	19,692	59,077	196,923	256,000
14	100,000	168,000	268,000	7,143	12,000	19,143	76,571	191,429	268,000
15	100,000	180,000	280,000	6,667	12,000	18,667	93,333	186,667	280,000

District C has the same fixed costs as district A but its variable costs are 20% greater. Its taxpayers benefit from accepting tuition students for the same reason as those in district A but because its costs are greater its taxpayers pay more education property taxes to the Education Fund. In this case, a taxpayer with a \$200,000 property would pay \$4,400 of property taxes prior to acceptance of the district B's tuition students and \$3,733 after.

If district B is legally obligated to provide its 10 resident students with an education and its board has chosen to pay tuition; districts A and C would each accept 5 students. Each district only has physical capacity for 5 and accepting these students reduces the fixed cost burden to its resident taxpayers. The cost to district B to educate its 10 resident students is \$176,667. Taxes on a \$200,000 property would be \$3,533.

<sup>85</sup> This example assumes a CLA of 1.00, a house site with 2 acres of property and disregards the effects of property tax assistance for simplicity of the example. Property tax assistance only shifts the tax burden it does not reduce it.

If the legislature imposes a uniform tuition rate, regardless of location or type of school, the impact will depend upon the cost structure of the districts involved. If, for example, the legislature imposes an \$11,000 per student tuition rate district A will continue to accept tuition students but district C will not.

District A would still incur total costs of \$250,000 for educating 15 students, however, instead of receiving \$83,333 of tuition proceeds from district B it would only receive \$55,000. This would mean district A bears a disproportionate share of fixed costs. It would continue to accept the tuition students, however, because the cost to district A's taxpayers of providing its 10 resident students an education is still less with the tuition paying students from district B than without them. In this case, district A would need to cover \$195,000 of total costs as opposed to the \$200,000 it would be required to cover if it refused district B's students. Education property taxes on a \$200,000 home would be reduced from \$4,000 to \$3,900. Although it is still a financially rational decision to accept the tuition students the distribution of costs is inequitable.

If district C refuses district B's tuition students then its cost of educating its 10 resident students is \$220,000. If it accepts district B's tuition students then it incurs \$280,000 in total costs for which it receives only \$55,000 of tuition proceeds. This leaves district C having to cover \$225,000 of the increased costs since district C is now covering all its variable costs, total fixed costs plus a portion of district B's variable costs. This would be a financially irresponsible decision and an inequitable distribution of costs. District C would therefore refuse district B's students even though physical capacity exists. A taxpayer with a \$200,000 property in district C would pay \$4,500 of property taxes to educate its 10 students if it accepted district B's students and only \$4,400 if it refused.

Under these circumstances, district B is still legally obligated to provide an education to its remaining 5 students. It must either find another Vermont public school district that has the capacity and is willing to accept the students or pay tuition to a private school in Vermont, a private school outside of Vermont or a public school in another state. The cost to the Education Fund under each of these scenarios would be \$525,000 but Vermont's economy loses \$5,000 of assets and the multiplier effect these assets provide to its economy once the tuition is paid to an out-of-state school. If no parties are willing to accept the \$55,000, district B has no option other than operate a school or divest itself of the obligation through alternative legal means. The least cost option, be it operations or merger, may be financially rational but politically challenging.

**ACT 174 SECTION 67(c)(3)**

**The report shall examine the impact, if any, of tuition payments on the number of students enrolled in Vermont schools.**

<b>FISCAL YEAR 2010<sup>86</sup></b>	<b>IN-STATE PUBLIC</b>	<b>IN-STATE PRIVATE</b>	<b>NON- VERMONT</b>	<b>TOTAL<sup>87</sup></b>
Tuition Expenditures	62,771,042	34,612,304	12,747,487	110,130,833
Tuition Student FTE	6,173.58	2,617.78	834.82	9,626.18
Expenditures per FTE	10,168	13,222	15,270	11,441
% Total Tuition FTE	64%	27%	9%	100%
% Total Student FTE <sup>88</sup>	7.0%	3.0%	0.9%	10.9%

<b>FISCAL YEAR 2014<sup>89</sup></b>	<b>IN-STATE PUBLIC</b>	<b>IN-STATE PRIVATE</b>	<b>NON- VERMONT</b>	<b>TOTAL<sup>90</sup></b>
Tuition Expenditures	54,171,796	35,820,591	12,373,213	102,365,600
Tuition Student FTE	5,593.82	2,734.81	792.81	9,121.44
Expenditures per FTE	9,684	13,098	15,607	11,223
% Total Tuition FTE	61%	30%	9%	100%
% Total Student FTE <sup>91</sup>	6.6%	3.2%	0.9%	10.7%

<sup>86</sup> FY10 figures are stated in FY14 dollars and have been adjusted using the October 2014 New England Economic Project Table 3 Index.

<sup>87</sup> 176 public Vermont education entities paid tuition.

<sup>88</sup> Total student FTE = 88,102.28

<sup>89</sup> FY14 represents the first year North Bennington elementary school district operated as a tuition district. In-State Private FTE's were reduced by 127 and Tuition Expenditures reduced by \$1,584,243 to maintain data parity with prior years and avoid over inflating tuition expenditures and Expenditures per FTE in this category.

<sup>90</sup> 168 public Vermont education entities paid tuition. Landgrove, Londonderry, Peru and Weston were independent tuition paying districts in FY10 but merged to form the Mountain Towns Regional Education District in FY14. This accounts for 4 of the 8 less tuition paying districts in FY14 as compared to FY10. 24 entities paying tuition in FY10 were no longer paying tuition in FY14 and 19 tuition paying entities in FY14 did not pay tuition in FY10.

FY 2010 – 2014	IN-STATE PUBLIC	IN-STATE PRIVATE	NON-VERMONT	TOTAL
Tuition Expenditures	-3.4%	0.9%	-0.7%	-1.8%
Tuition Student FTE	-2.3%	1.1%	-1.3%	-1.3%
Expenditures per FTE	-1.2%	-0.2%	0.6%	-0.5%
% Total Tuition FTE	-1.2%	2.8%	0.0%	0.0%
% Total Student FTE	-1.4%	1.7%	0.0%	-0.5%
Price Elasticity	1.0	-14.0	0.0	
Cross Elasticity Public		6.0	-2.0	
Cross Elasticity Private	-2.3		4.7	
Cross Elasticity NV	0.0	0.0		

The data<sup>92</sup> suggests that tuition impacts enrollment between Vermont public and private education entities but not non-Vermont entities. Average annual increases in non-Vermont tuition rates, as well as average annual reductions in Vermont public and private tuition rates, appeared to have no impact on the percentage of tuition students enrolled at non-Vermont institutions for the period 2010 - 2014. This inelasticity could be due to multiple factors, such as limited options due to geographic isolation or income inequality between students attending Vermont and non-Vermont institutions that are beyond the scope of this study.

The percentage of students enrolled at Vermont private institutions tends to be most sensitive to the tuition rates charged by the institution itself and is impacted to a lesser degree by non-Vermont tuition rates. Vermont public institutions demonstrate a negative cross elasticity indicating the two are complementary and private enrollments actually increase with decreases in public tuition rates. This would require further analysis to fully understand but such relationships can exist if consumers view price as a quality or status indicator. In this respect, sending districts may equate average annual reductions in tuition costs as indicative of reduced education quality. The sending districts therefore opt to send their students to higher cost private institutions as a preemptive attempt to compensate for what they perceive as a reduction in quality at less cost public institutions. Although this concern may be justified if the

<sup>91</sup> Total student FTE = 84,562.97

<sup>92</sup> Tuition amounts and FTE's are as provided by Vermont public education entities per the Vermont Agency of Education Stat Book collection Supplemental Worksheet 1 for regular education students. Total student FTE's are from the Vermont Agency of Education Spring Census collection.

receiving district's programming is consistently subject to budget reductions; it may also be just as probable that lower tuition rates are the result of reduced fixed costs, such as debt service payments that are no longer necessary due to bond retirements. As in the previous section, the financial structure of the receiving district is just as important to the sending district's decision to send tuition students as it is the receiving district's decision to accept them.

Enrollment in public Vermont education entities appears to be most sensitive to tuition rates at private Vermont institutions. The cross elasticity indicates that private institutions operate as a substitute for public options when private tuition rates decrease. As in the previous paragraph, tuition rate increases at non-Vermont entities appear to reduce public entity enrollment as do rate increases at other Vermont public institutions. The same quality and status concerns may be of concern but further analysis is necessary to determine causality. Factors such as relative size of reporting entities and distribution of FTE's among primary and secondary education could be influential to the results.