

1 S.219

2 Introduced by Senator Champion

3 Referred to Committee on

4 Date:

5 Subject: Education; use of public tuition; religious instruction; certification;
6 antidiscrimination laws; dual enrollment

7 Statement of purpose of bill as introduced: This bill proposes to: (1) ensure
8 compliance with the U.S. and Vermont Constitutions by clarifying that a
9 school district is authorized to pay public tuition to a qualified school or
10 program, regardless of its religious status or affiliation, if the school or
11 program has adequate safeguards to ensure that none of the tuition for which
12 payment is requested has been or will be used to support religious instruction
13 or worship or the propagation of religious views; (2) prohibit a school district
14 from paying public tuition to a qualified school or program, regardless of
15 religious status or affiliation, unless the school or program complies with
16 federal and State antidiscrimination laws applicable to public schools; and (3)
17 clarify under what circumstances a school district shall make dual enrollment
18 available to students who attend a school with a religious mission.

19 An act relating to ensuring compliance with the U.S. and Vermont
20 Constitutions in the use of public funds for tuition and in the dual
21 enrollment program

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

2 * * * Use of Public Tuition * * *

3 Sec. 1. FINDINGS AND PURPOSE

4 (a) Chapter 1, Article 3 of the Vermont Constitution, known as the
5 “Compelled Support Clause,” provides that “no person...can be compelled to
6 support any place of worship...contrary to the dictates of conscience...”

7 (b) In *Chittenden Town v. Department of Education*, 38 A.2d 539
8 (Vt. 1999), the Vermont Supreme Court held that a school district may pay
9 public tuition to a school with a religious mission under the Compelled
10 Support Clause if the school has adequate safeguards against the use of such
11 funds for religious worship or instruction or the propagation of religious views.

12 (c) The purpose of Sec. 2 of this act is to define adequate safeguards that a
13 school district must employ to ensure that public tuition is not used for
14 religious worship or instruction or the propagation of religious views.

15 Sec. 2. 16 V.S.A. § 828 is amended to read:

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

17 (a) A school district shall not pay the tuition of a student except to a public
18 school, an approved independent school, an independent school meeting
19 education quality standards, a tutorial program approved by the State Board, an
20 approved education program, or an independent school in another state or
21 country approved under the laws of that state or country, nor shall payment of

1 tuition on behalf of a person be denied on account of age. Unless otherwise
2 provided, a person who is aggrieved by a decision of a school board relating to
3 eligibility for tuition payments, the amount of tuition payable, or the school ~~he~~
4 ~~or she~~ the person may attend, may appeal to the State Board and its decision
5 shall be final.

6 (b) A school district shall not pay tuition under subsection (a) of this
7 section to a school or program identified in that subsection, regardless of
8 religious status or affiliation, unless it receives a certification from that school
9 or program that:

10 (1) none of the tuition for which payment is requested has been or will
11 be used to support religious instruction or worship or the propagation of
12 religious views; and

13 (2) the school or program has adopted and implemented policies and
14 procedures to comply with all federal and State antidiscrimination laws
15 applicable to public schools and makes reasonable efforts to enforce these
16 policies and procedures.

17 (c)(1) The certification requirement under subsection (b) of this section
18 shall not:

19 (A) apply to public schools that receive tuition from another school
20 district;

1 (B) require a school or program to comply with antidiscrimination
2 laws from which it is exempt from compliance under 21 V.S.A. 495(e); or

3 (C) prohibit the use of public tuition for instruction designed to
4 provide an overview of religious history and teachings, provided that the
5 instruction is not designed to, and does not, support religious instruction or
6 worship or the propagation of any one religion or theology over others.

7 (2) The certification required under subsection (b) of this section may be
8 modified to take into account the exceptions in this subsection to the extent
9 they apply.

10 (d)(1) A school district that is requested to pay tuition under subsection (a)
11 of this section to a school or program identified in that subsection shall not
12 make that payment if, in the reasonable belief of its school board, the school or
13 program is not in compliance with the certification under subsection (b) of this
14 section, even if it has received the required certification. The Agency of
15 Education shall assist a school district in making this determination if
16 requested by its school board. The decision of the school district may be
17 appealed to the State Board of Education under subdivision 164(3) of this title,
18 and the decision of the State Board of Education shall be final.

1 Sec. 3. 9 V.S.A. § 4502 is amended to read:

2 § 4502. PUBLIC ACCOMMODATIONS

3 * * *

4 (1)(1) Notwithstanding any other provision of law, a religious organization,
5 association, or society, or any nonprofit institution or organization operated,
6 supervised, or controlled by or in conjunction with a religious organization,
7 association, or society, shall not be required to provide services,
8 accommodations, advantages, facilities, goods, or privileges to an individual if
9 the request for such services, accommodations, advantages, facilities, goods, or
10 privileges is related to the solemnization of a marriage or celebration of a
11 marriage. Any refusal to provide services, accommodations, advantages,
12 facilities, goods, or privileges in accordance with this subsection shall not
13 create any civil claim or cause of action. This subsection shall not be
14 construed to limit a religious organization, association, or society, or any
15 nonprofit institution or organization operated, supervised, or controlled by or
16 in conjunction with a religious organization, from selectively providing
17 services, accommodations, advantages, facilities, goods, or privileges to some
18 individuals with respect to the solemnization or celebration of a marriage but
19 not to others.

20 (2) This subsection shall not be construed to permit a religious school
21 that receives public tuition funds to deny services, accommodations,

1 advantages, facilities, goods, or privileges to individuals because of their
2 membership in one or more of the protected categories listed under subsection
3 (a) of this section, including sexual orientation and gender identity.

4 * * * Dual Enrollment * * *

5 Sec. 4. FINDINGS AND PURPOSE

6 (a) Under 16 V.S.A. § 944, certain Vermont resident high school students
7 are able, at State expense, to take up to two classes that count both for high
8 school and college credit.

9 (b) This benefit is available to public school students and approved
10 independent school students on public tuition. Students are eligible for this
11 benefit who attend an approved independent school, whether secular or with a
12 religious mission, using public tuition.

13 (c) Students are not eligible for this benefit who attend an approved
14 independent school, whether secular or with a religious mission, using private
15 tuition.

16 (d) The Compelled Support Clause of the Vermont Constitution, Chapter 1,
17 Article 3, as interpreted in *Chittenden Town v. Department of Education*,
18 38 A.2d 539 (Vt. 1999), permits a school district to pay public tuition to a
19 school with a religious mission if the school has adequate safeguards against
20 the use of such funds for religious worship or instruction or the propagation of
21 religious views. Therefore, under the Vermont Constitution, a school district

1 may not deny the payment of public tuition to a school with a religious mission
2 solely on the basis of its religious status, and the school is eligible for that
3 payment if it has adequate safeguards against the use of such funds for
4 religious worship or instruction or the propagation of religious views.

5 (e) Likewise, under the Vermont Constitution, a school district may not
6 deny participation in the dual enrollment program solely because the students
7 attend a school with a religious mission. If the school has adequate safeguards
8 as to the use of public funding, then the school is eligible for public tuition, and
9 students who attend the school on public tuition would therefore be eligible to
10 participate in the dual enrollment program.

11 (f) The purpose of Sec. 5 of this act is to ensure that school districts do not
12 deny participation in the dual enrollment program to students who attend a
13 school with a religious mission based on the school's religious status.

14 Sec. 5. 16 V.S.A. § 944 is amended to read:

15 § 944. DUAL ENROLLMENT PROGRAM

16 (a) Program creation. There is created a statewide Dual Enrollment
17 Program to be a potential component of a student's flexible pathway. The
18 Program shall include college courses offered on the campus of an accredited
19 postsecondary institution and college courses offered by an accredited
20 postsecondary institution on the campus of a secondary school. The Program
21 may include online college courses or components.

1 (b) Students.

2 (1) A Vermont resident who has completed grade 10 but has not
3 received a high school diploma is eligible to participate in the Program if:

4 (A) the student:

5 (i) is enrolled in:

6 * * *

7 (III) an approved independent school in Vermont, including a
8 school that is secular or has a religious mission, to which the student's district
9 of residence pays publicly funded tuition on behalf of the student;

10 * * *

11 (k) Schools with a religious status. A school district shall not deny dual
12 enrollment benefits under this section solely on the basis of a school's religious
13 status.

14 * * * Effective Date * * *

15 Sec. 6. EFFECTIVE DATE

16 This act shall take effect on passage.