

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred Senate Bill No. 219
3 entitled “An act relating to ensuring compliance with the U.S. and Vermont
4 Constitutions in the use of public funds for tuition and in the dual enrollment
5 program” respectfully reports that it has considered the same and recommends
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 Sec. 1. FINDINGS AND PURPOSE

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

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

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

1 Sec. 2. 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 student except to a public
4 school, an approved independent school, an independent school meeting
5 education quality standards, a tutorial program approved by the State Board, an
6 approved education program, or an independent school in another state or
7 country approved under the laws of that state or country, nor shall payment of
8 tuition on behalf of a person be denied on account of age. Unless otherwise
9 provided, a person who is aggrieved by a decision of a school board relating to
10 eligibility for tuition payments, the amount of tuition payable, or the school ~~he~~
11 ~~or she~~ the person may attend, may appeal to the State Board and its decision
12 shall be final.

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

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

20 (2) the school or program has adopted and implemented policies and
21 procedures to comply with all federal and State antidiscrimination laws

1 applicable to public schools and makes reasonable efforts to enforce these
2 policies and procedures.

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

5 (A) apply to public schools that receive tuition from another school
6 district; or

7 (B) prohibit the use of public tuition for instruction designed to
8 provide an overview of religious history and teachings, provided that the
9 instruction is not designed to, and does not, support religious instruction or
10 worship or the propagation of any one religion or theology over others.

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

14 (d)(1) A school district that is requested to pay tuition under subsection (a)
15 of this section to a school or program identified in that subsection shall not
16 make that payment if, in the reasonable belief of its school board, the school or
17 program is not in compliance with the certification under subsection (b) of this
18 section, even if it has received the required certification. The Agency of
19 Education shall assist a school district in making this determination if
20 requested by its school board. The decision of the school district may be

1 appealed to the State Board of Education under subdivision 164(3) of this title,
2 and the decision of the State Board of Education shall be final.

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

4 § 4502. PUBLIC ACCOMMODATIONS

5 * * *

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

1 (2) This subsection shall not be construed to permit a religious school
2 that receives public tuition funds to deny services, accommodations,
3 advantages, facilities, goods, or privileges to individuals because of their
4 membership in one or more of the protected categories listed under subsection
5 (a) of this section, including sexual orientation and gender identity.

6 Sec. 4. 21 V.S.A. § 495 is amended to read:

7 § 495. UNLAWFUL EMPLOYMENT PRACTICE

8 * * *

9 ~~(e) The provisions of this section prohibiting discrimination on the basis of~~
10 ~~sexual orientation and gender identity shall not be construed to prohibit or~~
11 ~~prevent any religious or denominational institution or organization, or any~~
12 ~~organization operated for charitable or educational purposes, that is operated,~~
13 ~~supervised, or controlled by or in connection with a religious organization,~~
14 ~~from giving preference to persons of the same religion or denomination or~~
15 ~~from taking any action with respect to matters of employment that is calculated~~
16 ~~by the organization to promote the religious principles for which it is~~
17 ~~established or maintained. [Repealed.]~~

18 * * *

1 * * * Dual Enrollment * * *

2 Sec. 5. FINDINGS AND PURPOSE

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

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

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

13 (d) The Compelled Support Clause of the Vermont Constitution, Chapter 1,
14 Article 3, as interpreted in *Chittenden Town v. Department of Education,*
15 38 A.2d 539 (Vt. 1999), permits a school district to pay public tuition to a
16 school with a religious mission if the school has adequate safeguards against
17 the use of such funds for religious worship or instruction or the propagation of
18 religious views. Therefore, under the Vermont Constitution, a school district
19 may not deny the payment of public tuition to a school with a religious mission
20 solely on the basis of its religious status, and the school is eligible for that

1 payment if it has adequate safeguards against the use of such funds for
2 religious worship or instruction or the propagation of religious views.

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

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

12 Sec. 6. 16 V.S.A. § 944 is amended to read:

13 § 944. DUAL ENROLLMENT PROGRAM

14 (a) Program creation. There is created a statewide Dual Enrollment
15 Program to be a potential component of a student's flexible pathway. The
16 Program shall include college courses offered on the campus of an accredited
17 postsecondary institution and college courses offered by an accredited
18 postsecondary institution on the campus of a secondary school. The Program
19 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. 7. EFFECTIVE DATE

16 This act shall take effect on passage.

17

18 (Committee vote: _____)

19 _____

20 Senator _____

21 FOR THE COMMITTEE