

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 \* \* \* Use of Public Tuition \* \* \*

9 Sec. 1. FINDINGS AND PURPOSE

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

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

18 (c) The purpose of Sec. 2 of this act is to define adequate safeguards that a  
19 school district must employ to ensure that public tuition is not used for  
20 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. 21 V.S.A. § 495 is amended to read:

4 § 495. UNLAWFUL EMPLOYMENT PRACTICE

5 \* \* \*

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 [Repealed.]~~

15 \* \* \*

16 \* \* \* Dual Enrollment \* \* \*

17 Sec. 4. FINDINGS AND PURPOSE

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

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

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

8       (d) The Compelled Support Clause of the Vermont Constitution, Chapter 1,  
9       Article 3, as interpreted in *Chittenden Town v. Department of Education*,  
10       38 A.2d 539 (Vt. 1999), permits a school district to pay public tuition to a  
11       school with a religious mission if the school has adequate safeguards against  
12       the use of such funds for religious worship or instruction or the propagation of  
13       religious views. Therefore, under the Vermont Constitution, a school district  
14       may not deny the payment of public tuition to a school with a religious mission  
15       solely on the basis of its religious status, and the school is eligible for that  
16       payment if it has adequate safeguards against the use of such funds for  
17       religious worship or instruction or the propagation of religious views.

18       (e) Likewise, under the Vermont Constitution, a school district may not  
19       deny participation in the Dual Enrollment Program solely because the students  
20       attend a school with a religious mission. If the school has adequate safeguards  
21       as to the use of public funding, then the school is eligible for public tuition, and

1 students who attend the school on public tuition would therefore be eligible to  
2 participate in the Dual Enrollment Program.

3 (f) The purpose of Sec. 5 of this act is to ensure that school districts do not  
4 deny participation in the Dual Enrollment Program to students who attend a  
5 school with a religious mission based on the school's religious status.

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

7 § 944. DUAL ENROLLMENT PROGRAM

8 (a) Program creation. There is created a statewide Dual Enrollment  
9 Program to be a potential component of a student's flexible pathway. The  
10 Program shall include college courses offered on the campus of an accredited  
11 postsecondary institution and college courses offered by an accredited  
12 postsecondary institution on the campus of a secondary school. The Program  
13 may include online college courses or components.

14 (b) Students.

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

17 (A) the student:

18 (i) is enrolled in:

19 (I) a Vermont public school, including a Vermont career  
20 technical center;

1 (II) a public school in another state or an approved independent  
2 school that is designated as the public secondary school for the student’s  
3 district of residence; or

4 (III) an approved independent school in Vermont to which the  
5 student’s district of residence pays publicly funded tuition on behalf of the  
6 student;

7 (ii) is assigned to a public school through the High School  
8 Completion Program; ~~or~~

9 (iii) is a home study student; or

10 (iv) is a resident of a nonoperating district enrolled in an approved  
11 independent school;

12 \* \* \*

13 \* \* \* Effective Date \* \* \*

14 Sec. 6. EFFECTIVE DATE

15 This act shall take effect on passage.

16

17 (Committee vote: \_\_\_\_\_)

18

\_\_\_\_\_

19

Senator \_\_\_\_\_

20

FOR THE COMMITTEE