

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 \* \* \* Provision of Publicly Funded Education in Vermont \* \* \*

9 Sec. 1. 16 V.S.A. § 820 is added to read:

10 § 820. PROVISION OF PUBLICLY FUNDED EDUCATION IN

11 VERMONT

12 (a) Findings and purpose.

13 (1) The Vermont Constitution provides that “a competent number of  
14 schools ought to be maintained in each town unless the general assembly  
15 permits other provisions for the convenient instruction of youth.” VT Const.  
16 CH II, § 68. Interpreting this provision in *Brigham v. State*, 692 A.2d 384  
17 (1997), the Vermont Supreme Court stated that “[t]he state may delegate to  
18 local towns and cities the authority to finance and administer the schools  
19 within their borders; it cannot, however, abdicate the basic responsibility for  
20 education by passing it on to local governments, which are themselves  
21 creations of the state.” *Id.* at 395.

1           (A) From this, it is evident that the State has a constitutional  
2           obligation to provide public education to its youth. Many Vermont school  
3           districts operate schools, but others do not. Vermont is a relatively sparsely  
4           populated and mountainous state that has made the operation of public schools  
5           unviable in certain regions of the State. Students who live in these regions do  
6           not have the choice of enrolling in a public school in their district; their only  
7           choice is to enroll in a public school operated by another school district or an  
8           independent school or to be homeschooled.

9           (B) Therefore, in order to fulfill its constitutional requirement to  
10          provide public education to its youth, the State permits school districts that do  
11          not operate schools (nonoperating school districts) to use public funds to send  
12          their resident youth to public schools operated by other school districts or to  
13          certain independent schools. In order for an independent school to be eligible  
14          to receive public tuition, this section requires these schools to:

15                (i) comply with all federal and State antidiscrimination laws  
16                applicable to Vermont public schools; and

17                (ii) not use public tuition to support religious instruction, religious  
18                indoctrination, religious worship, or the propagation of religious views.

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

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

6           (B) This section sets out adequate safeguards to ensure that public  
7           tuition is not used for religious instruction, religious indoctrination, religious  
8           worship, or the propagation of religious views.

9           (b) Conditions for eligibility of an approved independent school to receive  
10           public tuition. An approved independent school shall be eligible to receive  
11           public tuition only if all of the following conditions are met.

12           (1)(A) The school has adopted and implemented policies and procedures  
13           to comply with all federal and State antidiscrimination laws applicable to  
14           Vermont public schools and makes reasonable efforts to enforce these policies  
15           and procedures. Compliance with the requirements set forth in these  
16           antidiscrimination laws includes compliance with the Vermont Public  
17           Accommodations Act, 9 V.S.A. chapter 139, the Vermont Fair Employment  
18           Practices laws, 21 V.S.A. chapter 5, subchapter 6, and all other federal and  
19           State antidiscrimination laws that apply to public schools, to the same extent  
20           that these laws apply to public schools, even if those laws by their terms do not  
21           apply to the approved independent school.

1           (B) The school posts and maintains on its website in a prominent  
2           place its policy to comply with all antidiscrimination laws that apply to public  
3           schools.

4           (2) None of the public tuition will be used to support religious  
5           instruction, religious indoctrination, religious worship, or the propagation of  
6           religious views, except for religious instruction that is designed to provide an  
7           overview of religious history and teachings and does not support religious  
8           instruction, religious indoctrination, religious worship, or the propagation of  
9           any one religion or theology over others. In this section, “indoctrination”  
10           means the process of repeating an idea or belief to someone until they accept it  
11           without criticism or question.

12           (3) The school receives approval from the State Board of Education to  
13           receive public tuition. In order to receive State Board approval, the school  
14           shall, in addition to satisfying any conditions required by the State Board, enter  
15           into a contract with the State Board, signed by an authorized representative  
16           acting on behalf of the school’s governing body, agreeing to comply with the  
17           eligibility requirements under subdivisions (1)–(2) of this subsection  
18           (antidiscrimination; no use of funds for religious purposes).

19           (c) Process for payment and school selection.

20           (1) The State Board of Education shall maintain a list of approved  
21           independent schools eligible to receive public tuition on its website.

1           (2) A school district may only pay tuition to an approved independent  
2           school eligible to receive public tuition listed on the State Board’s website.  
3           Payment of public tuition shall be made directly from the district to the school  
4           unless otherwise required by court order.

5           (d) Approved independent school eligible to receive public tuition. As  
6           used in this title, an “approved independent school eligible to receive public  
7           tuition” means an approved independent school that is eligible to receive  
8           public tuition under this section. An independent school meeting education  
9           quality standards under section 165 of this title or an approved independent  
10           school in Vermont functioning as an approved area career technical center  
11           under chapter 37 of this title that seeks to receive public tuition is required also  
12           to qualify as an approved independent school eligible to receive public tuition.

13           Sec. 1a. 16 V.S.A. § 820 is amended to read:

14           § 820. PROVISION OF PUBLICLY FUNDED EDUCATION IN  
15           VERMONT

16           (a) Findings and purpose.

17           (1) The Vermont Constitution provides that “a competent number of  
18           schools ought to be maintained in each town unless the general assembly  
19           permits other provisions for the convenient instruction of youth.” VT Const.  
20           CH II, § 68. Interpreting this provision in *Brigham v. State*, 692 A.2d 384  
21           (1997), the Vermont Supreme Court stated that “[t]he state may delegate to

1 local towns and cities the authority to finance and administer the schools  
2 within their borders; it cannot, however, abdicate the basic responsibility for  
3 education by passing it on to local governments, which are themselves  
4 creations of the state.” *Id.* at 395.

5 \* \* \*

6 (B) Therefore, in order to fulfill its constitutional requirement to  
7 provide public education to its youth, the State permits school districts that do  
8 not operate schools (nonoperating school districts) to use public funds to send  
9 their resident youth to public schools operated by other school districts or to  
10 certain independent schools. In order for an independent school to be eligible  
11 to receive public tuition, this section requires these schools to:

12 (i) comply with all federal and State antidiscrimination laws  
13 applicable to Vermont public schools; ~~and~~

14 (ii) not use public tuition to support religious instruction, religious  
15 indoctrination, religious worship, or the propagation of religious views; and

16 (iii) enroll any student with an individualized education program  
17 (IEP) who requires special education services and who is placed in the  
18 independent school as an appropriate placement and least restrictive  
19 environment for the student by the student’s individualized education program  
20 team or by the local education agency (LEA) as required under section 2973 of  
21 this title.

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\* \* \*

(b) Conditions for eligibility of an approved independent school to receive public tuition. An approved independent school shall be eligible to receive public tuition only if all of the following conditions are met.

\* \* \*

(3) The school enrolls any student with an individualized education program who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student’s individualized education program team or by LEA as required under section 2973 of this title.

~~(3)~~(4) The school receives approval from the State Board of Education to receive public tuition. In order to receive State Board approval, the school shall, in addition to satisfying any conditions required by the State Board, enter into a contract with the State Board, signed by an authorized representative acting on behalf of the school’s governing body, agreeing to comply with the eligibility requirements under subdivisions (1)–~~(2)~~(3) of this subsection (antidiscrimination; no use of funds for religious purposes; enrollment of students on an IEP).

\* \* \*

1                                   \* \* \* Unlawful Employment Practice \* \* \*

2           Sec. 2. 21 V.S.A. § 495 is amended to read:

3           § 495. UNLAWFUL EMPLOYMENT PRACTICE

4                                   \* \* \*

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

14                                   \* \* \*

15                                   \* \* \* Dual Enrollment \* \* \*

16           Sec. 3. 16 V.S.A. § 944 is amended to read:

17           § 944. DUAL ENROLLMENT PROGRAM

18                                   \* \* \*

19           (b) Students.

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



1 (A) ~~the student:~~

2 (i) ~~is enrolled in:~~

3 (I) ~~a Vermont public school, including a Vermont career~~  
4 ~~technical center;~~

5 (II) ~~a public school in another state or an approved independent~~  
6 ~~school that is designated as the public secondary school for the student's~~  
7 ~~district of residence; or~~

8 (III) ~~an approved independent school in Vermont to which the~~  
9 ~~student's district of residence pays publicly funded tuition on behalf of the~~  
10 ~~student;~~

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

13 (iii) ~~is a home study student;~~

14 none of the payment to the accredited postsecondary institution will be used to  
15 support religious instruction, religious indoctrination (as defined in section 820  
16 of this title), religious worship, or the propagation of religious views, except  
17 for religious instruction that is designed to provide an overview of religious  
18 history and teachings and does not support religious instruction, religious  
19 indoctrination, religious worship, or the propagation of religious views of any  
20 one religion or theology over others; and

1                   (B) the student is not enrolled in a recognized independent  
2                   school or a school or program that is not recognized for attendance purposes  
3                   under section 1121 of this title;

4                   ~~(B)~~(C) dual enrollment is an element included within the student’s  
5 personalized learning plan; and

6                   ~~(C)~~(D) the secondary school and the postsecondary institution have  
7 determined that the student is sufficiently prepared to succeed in a dual  
8 enrollment course, which can be determined in part by the assessment tool or  
9 tools identified by the participating postsecondary institution.

10   \* \* \*

11   \* \* \* **Conforming Changes** \* \* \*

12                   Sec. 4. 16 V.S.A. § 11 is amended to read:

13                   § 11. CLASSIFICATIONS AND DEFINITIONS

14                   (a) As used in this title, unless the context otherwise clearly requires:

15   \* \* \*

16                   (20a) “Approved independent school eligible to receive public tuition”  
17                   means an approved independent school that is also approved by the State  
18                   Board of Education to receive public tuition under section 820 of this title.

19   \* \* \*

1 Sec. 5. 16 V.S.A. § 165 is amended to read:

2 § 165. EDUCATION QUALITY STANDARDS; EQUAL EDUCATIONAL  
3 OPPORTUNITIES; INDEPENDENT SCHOOL MEETING  
4 EDUCATION QUALITY STANDARDS

5 \* \* \*

6 (b) Annually, the Secretary shall determine whether students in each  
7 Vermont public school are provided educational opportunities substantially  
8 equal to those provided in other public schools. If the Secretary determines  
9 that a school is not meeting the education quality standards listed in subsection  
10 (a) of this section or that the school is making insufficient progress in  
11 improving student performance in relation to the standards for student  
12 performance set forth in subdivision 164(9) of this title, ~~he or she~~ the Secretary  
13 shall describe in writing actions that a district must take in order to meet either  
14 or both sets of standards and shall provide technical assistance to the school. If  
15 the school fails to meet the standards or make sufficient progress within two  
16 years of the determination, the Secretary shall recommend to the State Board  
17 one or more of the following actions:

18 \* \* \*

19 (4) the State Board close an individual school or schools and require that  
20 the school district pay tuition to another public school or an approved

1 independent school ~~pursuant to chapter 21 of this title~~ eligible to receive public  
2 tuition; or

3 \* \* \*

4 Sec. 6. 16 V.S.A. § 166 is amended to read:

5 § 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

6 \* \* \*

7 (b) Approved independent schools. On application, the State Board shall  
8 approve an independent school that offers elementary or secondary education  
9 if it finds, after opportunity for hearing, that the school provides a minimum  
10 course of study pursuant to section 906 of this title and that it substantially  
11 complies with all statutory requirements for approved independent schools and  
12 the Board's rules for approved independent schools. ~~An independent school~~  
13 ~~that intends to accept public tuition shall be approved by the State Board only~~  
14 ~~on the condition that the school agrees, notwithstanding any provision of law~~  
15 ~~to the contrary, to enroll any student who requires special education services~~  
16 ~~and who is placed in or referred to the approved independent school as an~~  
17 ~~appropriate placement and least restrictive environment for the student by the~~  
18 ~~student's individualized education program team or by the local education~~  
19 ~~agency; provided, however, that this requirement shall not apply to an~~  
20 ~~independent school that limits enrollment to students who are on an~~  
21 ~~individualized education program or a plan under Section 504 of the~~

1 ~~Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to~~  
2 ~~a written agreement between the local education agency and the school.~~

3 Except as provided in subdivision (6) of this subsection, the Board’s rules must  
4 at minimum require that the school have the resources required to meet its  
5 stated objectives, including financial capacity, faculty who are qualified by  
6 training and experience in the areas in which they are assigned, and physical  
7 facilities and special services that are in accordance with any State or federal  
8 law or regulation. Approval may be granted without State Board evaluation in  
9 the case of any school accredited by a private, State, or regional agency  
10 recognized by the State Board for accrediting purposes, provided that the State  
11 Board shall determine that the school complies with all student enrollment  
12 provisions required by law.

13 \* \* \*

14 Sec. 7. 16 V.S.A. § 821 is amended to read:

15 § 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY  
16 SCHOOLS OR PAY TUITION

17 \* \* \*

18 (d) Notwithstanding subdivision (a)(1) of this section, the electorate of a  
19 school district that does not maintain an elementary school may grant general  
20 authority to the school board to pay tuition for an elementary student at an  
21 approved independent elementary school eligible to receive public tuition or an

1 independent school meeting education quality standards pursuant to sections  
2 823 and 828 of this chapter upon notice given by the student's parent or legal  
3 guardian before April 15 for the next academic year.

4 Sec. 8. 16 V.S.A. § 822 is amended to read:

5 § 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR  
6 PAY TUITION

7 (a) Each school district shall maintain one or more approved high schools  
8 in which high school education is provided for its resident students unless:

9 (1) the electorate authorizes the school board to close an existing high  
10 school and to provide for the high school education of its students by paying  
11 tuition ~~to a public high school, an approved independent high school, or an~~  
12 ~~independent school meeting education quality standards, to be selected by the~~  
13 ~~parents or guardians of the student, within or outside the State~~ in accordance  
14 with sections 824 and 828 of this title; or

15 \* \* \*

16 (c)(1) A school district may both maintain a high school and furnish high  
17 school education by paying tuition:

18 \* \* \*

19 (B) to an approved independent school eligible to receive public  
20 tuition or an independent school meeting education quality standards if the

1 school board judges that a student has unique educational needs that cannot be  
2 served within the district or at a nearby public school.

3 \* \* \*

4 Sec. 9. 16 V.S.A. § 823 is amended to read:

5 § 823. ELEMENTARY TUITION

6 \* \* \*

7 (b) Unless the electorate of a school district authorizes payment of a higher  
8 amount at an annual or special meeting warned for the purpose, the tuition paid  
9 to an approved independent elementary school eligible to receive public tuition  
10 or an independent school meeting education quality standards shall not exceed  
11 the least of:

12 \* \* \*

13 Sec. 10. 16 V.S.A. § 824 is amended to read:

14 § 824. HIGH SCHOOL TUITION

15 \* \* \*

16 (c) The district shall pay an amount not to exceed the average announced  
17 tuition of Vermont union high schools for the year of attendance for its  
18 students enrolled in an approved independent school eligible to receive public  
19 tuition that does not functioning function as a Vermont area career technical  
20 center; or any higher amount approved by the electorate at an annual or special  
21 meeting warned for that purpose.

1 Sec. 11. 16 V.S.A. § 827 is amended to read:

2 § 827. DESIGNATION OF A PUBLIC HIGH SCHOOL OR AN

3 APPROVED INDEPENDENT HIGH SCHOOL AS THE PUBLIC

4 HIGH SCHOOL OF A SCHOOL DISTRICT

5 (a) A school district not maintaining an approved public high school may  
6 vote on such terms or conditions as it deems appropriate, to designate three or  
7 fewer approved independent schools eligible to receive public tuition or public  
8 high schools as the public high school or schools of the district.

9 \* \* \*

10 (c) A parent or legal guardian who is dissatisfied with the instruction  
11 provided at a designated school or who cannot obtain for ~~his or her~~ the parent's  
12 or legal guardian's child the kind of course or instruction desired there, or  
13 whose child can be better accommodated in an approved independent school  
14 eligible to receive public tuition or public high school nearer ~~his or her~~ the  
15 child's home during the next academic year, may request on or before April 15  
16 that the school board pay tuition to another approved independent school  
17 eligible to receive public tuition or public high school selected by the parent or  
18 guardian.

19 \* \* \*

20 (e) Notwithstanding any other provision of law to the contrary:

21 \* \* \*



1           (2) unless otherwise directed by an affirmative vote of the school  
2 district, when the Wells Board approves parental requests to pay tuition to a  
3 nondesignated approved independent school eligible to receive public tuition  
4 or public school, the Board shall pay tuition in an amount not to exceed the  
5 base education amount as determined under section 4011 of this title for the  
6 fiscal year in which tuition is being paid; and

7           (3) unless otherwise directed by an affirmative vote of the school  
8 district, when the Strafford Board approves a parental request to pay tuition to  
9 a nondesignated approved independent school eligible to receive public tuition  
10 or public school, the Board shall pay tuition to the nondesignated school  
11 pursuant to section 824 of this title for the year in which the student is enrolled;  
12 provided, however, that it shall not pay tuition in an amount that exceeds the  
13 tuition paid to the designated school for the same academic year.

14 Sec. 12. 16 V.S.A. § 828 is amended to read:

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

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

1 of tuition on behalf of a person shall not be denied on account of age. Unless  
2 otherwise provided, a person who is aggrieved by a decision of a school board  
3 relating to eligibility for tuition payments, the amount of tuition payable, or the  
4 school ~~he or she~~ the person may attend, may appeal to the State Board, and its  
5 decision shall be final.

6 (b) An independent school in another state or country that is approved  
7 under the laws of that state or country is eligible to receive public tuition if all  
8 of the following conditions are met:

9 (1) It is located in a state that borders Vermont or in the Quebec  
10 Province of Canada, provided that an independent school that is not located in  
11 a state that borders Vermont or in the Quebec Province of Canada shall be  
12 eligible to receive public tuition if:

13 (A) the student is on an individual education program (IEP) and is  
14 placed at the school in accordance with the Individuals with Disabilities  
15 Education Act, 20 U.S.C. chapter 33, as amended;

16 (B) the student is on a plan under Section 504 of the Rehabilitation  
17 Act of 1973, 29 U.S.C. § 794, as amended (504 Plan); or

18 (C) the student is determined to be disabled by the evaluation  
19 planning team or local education agency representative under State Board of  
20 Education rules.

1           (2)(A) The independent school has adopted and implemented policies  
2           and procedures to comply with all antidiscrimination laws applicable to public  
3           schools in the state or country where the independent school is located and  
4           makes reasonable efforts to enforce these policies and procedures. Compliance  
5           with the requirements set forth in these antidiscrimination laws includes  
6           compliance with antidiscrimination laws to the same extent as these laws apply  
7           to public schools, even if those laws by their terms do not apply to the  
8           independent school.

9           (B) The independent school posts and maintains on its website in a  
10          prominent place its policy to comply with all antidiscrimination laws that apply  
11          to public schools in the state or country where the independent school is  
12          located.

13          (3) None of the public tuition will be used to support religious  
14          instruction, religious indoctrination (as defined in section 820 of this title),  
15          religious worship, or the propagation of religious views, except for religious  
16          instruction that is designed to provide an overview of religious history and  
17          teachings and does not support religious instruction, religious indoctrination,  
18          religious worship, or the propagation of religious views of any one religion or  
19          theology over others.

20          (4) The independent school enters into a contract with the Vermont  
21          State Board of Education, signed by an authorized representative acting on

1 behalf of the school’s governing body, agreeing to comply with the eligibility  
2 requirements under subdivisions (2)–(3) of this subsection (antidiscrimination;  
3 no use of funds for religious purposes).

4 Sec. 13. 16 V.S.A. § 1073 is amended to read:

5 § 1073. “LEGAL PUPIL” DEFINED; ACCESS TO SCHOOL

6 \* \* \*

7 (b) Access to school.

8 \* \* \*

9 (2) Right to enroll in a public or independent school. Notwithstanding  
10 the provisions of sections 822 and 1075 of this title, a pregnant or parenting  
11 student may enroll in any approved public school in Vermont or an adjacent  
12 state, any approved independent school eligible to receive public tuition in  
13 Vermont, or any other educational program approved by the State Board in  
14 which any other legal pupil in Vermont may enroll.

15 \* \* \*

16 Sec. 14. 16 V.S.A. § 2962 is amended to read:

17 § 2962. EXTRAORDINARY SPECIAL EDUCATION REIMBURSEMENT

18 \* \* \*

19 (e) Under section 2973 of this title, a supervisory union, in its role as the  
20 local education agency, may place a student with an individualized education  
21 program under the Individuals with Disabilities Education Act, 20 U.S.C.

1 chapter 33, with ~~certain~~ approved independent schools ~~that accept public~~  
2 ~~tuition~~ eligible to receive public tuition. If the approved independent school is  
3 entitled to special education cost reimbursement under that section, it may bill  
4 the supervisory union for excess special education costs incurred by the  
5 independent school in providing special education services to that student  
6 beyond those covered by general tuition. If those costs for that student exceed  
7 the extraordinary expenditures threshold as defined in subdivision (a)(2) of this  
8 section, the supervisory union shall be entitled to extraordinary reimbursement.

9 Sec. 15. 16 V.S.A. § 2973 is amended to read:

10 § 2973. INDEPENDENT SCHOOL TUITION RATES

11 (a)(1) Notwithstanding any provision of law to the contrary, an approved  
12 independent school ~~that accepts~~ eligible to receive public tuition shall enroll  
13 any student with an individualized education program who requires special  
14 education services and who is placed in the approved independent school as an  
15 appropriate placement and least restrictive environment for the student by the  
16 student's individualized education program team or by the local education  
17 agency (LEA); provided, however, that this requirement shall not apply to an  
18 independent school that limits enrollment to students who are on an  
19 individualized education program or a plan under Section 504 of the  
20 Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to  
21 a written agreement between the LEA and the school.

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\* \* \*

\* \* \* Development of Standard Contract \* \* \*

Sec. 16. DEVELOPMENT OF STANDARD CONTRACT

(a) On or before August 1, 2022, the State Board of Education shall create and post on its website a standard form contract for use by approved independent schools eligible to receive public tuition that complies with the requirements of 16 V.S.A. § 820(b)(3) (antidiscrimination; no use of funds for religious purposes; enrollment of students on an individualized education program). The contract shall contain each of the following provisions:

(1) The State Board’s authorization for the school to receive public tuition is conditioned on continued compliance by the school of this contract as well as any other conditions required by law or State Board rules.

(2)(A) The school has adopted and implemented policies and procedures to comply with all federal and State antidiscrimination laws applicable to Vermont public schools and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with the Vermont Public Accommodations Act, 9 V.S.A. chapter 139, the Vermont Fair Employment Practices laws, 21 V.S.A. chapter 5, subchapter 6, and all other federal and State antidiscrimination laws that apply to public schools to the same extent

1 that these laws apply to public schools, even if those laws by their terms do not  
2 apply to the school.

3 (B) The school has posted and shall maintain on its website in a  
4 prominent place its policy to comply with all antidiscrimination laws that apply  
5 to public schools.

6 (3) None of the public tuition will be used by the school to support  
7 religious instruction, religious indoctrination, religious worship, or the  
8 propagation of religious views, except for religious instruction that is designed  
9 to provide an overview of religious history and teachings and does not support  
10 religious instruction, religious indoctrination, religious worship, or the  
11 propagation of any one religion or theology over others. As used in this  
12 contract, “indoctrination” means the process of repeating an idea or belief to  
13 someone until they accept it without criticism or question.

14 (4) Commencing with the 2023–2024 school year and thereafter, the  
15 school shall enroll any student with an individualized education program who  
16 requires special education services and who is placed in the school as an  
17 appropriate placement and least restrictive environment for the student by the  
18 student’s individualized education program team or by the local education  
19 agency as required under 16 V.S.A. § 2973.

20 (b) On or before August 1, 2022, the State Board of Education shall create  
21 and post on its website a standard form contract for use by independent schools

1 in another state or country that complies with the requirements of 16 V.S.A.  
2 § 828(b) (antidiscrimination; no use of funds for religious purposes). The  
3 contract shall contain each of the following provisions:

4 (1) The State Board’s authorization for the school to receive public  
5 tuition is conditioned on continued compliance by the school of this contract.

6 (2)(A) The independent school has adopted and implemented policies  
7 and procedures to comply with all antidiscrimination laws applicable to public  
8 schools in the state or country where the independent school is located and  
9 makes reasonable efforts to enforce these policies and procedures. Compliance  
10 with the requirements set forth in these antidiscrimination laws includes  
11 compliance with antidiscrimination laws to the same extent as these laws apply  
12 to public schools, even if those laws by their terms do not apply to the  
13 independent school.

14 (B) The independent school posts and maintains on its website in a  
15 prominent place its policy to comply with all antidiscrimination laws that apply  
16 to public schools in the state or country where the independent school is  
17 located.

18 (3) None of the public tuition will be used to support religious  
19 instruction, religious indoctrination, religious worship, or the propagation of  
20 religious views, except for religious instruction that is designed to provide an  
21 overview of religious history and teachings and does not support religious



1 instruction, religious indoctrination, religious worship, or the propagation of  
2 religious views of any one religion or theology over others. As used in this  
3 contract, “indoctrination” means the process of repeating an idea or belief to  
4 someone until they accept it without criticism or question.

5 (c) A contract signed on behalf of the State Board and a school under 16  
6 V.S.A. § 820(b)(3) or 828(b) shall contain no other conditions or requirements  
7 than those required under this section. The State Board and the school shall  
8 amend the contract as necessary to comply with applicable law, and the State  
9 Board shall amend its model contracts accordingly.

10 \* \* \* Transition \* \* \*

11 Sec. 17. TRANSITION

12 A student enrolled for the 2021–2022 school year in, or has been accepted  
13 for enrollment for the 2022–2023 school year by, an independent school in  
14 another state or country that would not be eligible to receive public tuition  
15 under 16 V.S.A. § 828 as amended by this act shall continue to be entitled to  
16 public tuition until such time as the student graduates from that school. The  
17 school shall not be required to enter into the contract with the Vermont State  
18 Board of Education under 16 V.S.A. § 828 as amended by this act.

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\* \* \* Effective Dates \* \* \*

Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1a, 6, 14, and 15 shall take effect on July 1, 2023.

and that after passage the title of the bill be amended to read: “An act relating to ensuring compliance with the U.S. and Vermont Constitutions in the use of public funds for tuition”

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

\_\_\_\_\_

Senator \_\_\_\_\_

FOR THE COMMITTEE