

1 H.820

2 Introduced by Representatives Brady of Williston, Arsenault of Williston,

3 Holcombe of Norwich, and Stone of Burlington

4 Referred to Committee on

5 Date:

6 Subject: Education; maintenance of public schools; designation

7 Statement of purpose of bill as introduced: This bill proposes to (1) create
8 criteria an approved independent school must comply with to receive public
9 tuition and (2) require public school districts that do not maintain a public
10 elementary or high school to designate up to five public or approved
11 independent schools eligible to receive public tuition to serve as the public
12 schools of the district.

13 An act relating to public school designation and the use of public funds for
14 tuition

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

16 * * * Findings * * *

17 Sec. 1. FINDINGS AND PURPOSE

18 (a) The Vermont Constitution provides that “a competent number of
19 schools ought to be maintained in each town unless the general assembly
20 permits other provisions for the convenient instruction of youth.” Vt. Const.

1 Ch II, § 68. Interpreting this provision in Brigham v. State, 692 A.2d 384
2 (1997), the Vermont Supreme Court stated that “[t]he state may delegate to
3 local towns and cities the authority to finance and administer the schools
4 within their borders; it cannot, however, abdicate the basic responsibility for
5 education by passing it on to local governments, which are themselves
6 creations of the state.” Id. at 395.

7 (b) Vermont public education funds have been used to send students to ski
8 academies, out-of-state art schools, and even foreign boarding schools.
9 According to data received from a public-records request by the Agency of
10 Education, Vermont paid more than \$40,000,000.00 in public tuition to more
11 than 60 private schools in 2016, including more than \$1,300,000.00 to out-of-
12 state schools.

13 (c) The tuition paid by school districts that do not maintain their own
14 schools covers less than half of the typical prep school tuition. Low-income
15 Vermonters in such towns still cannot afford many of the private schools in
16 and outside Vermont where current Education Fund dollars are being used
17 towards tuition.

18 (d) The current model of education funding for students in towns that do
19 not operate a school has no income limit, further exacerbating opportunity
20 gaps, whereby students from more economically advantaged families can

1 access schools and opportunities that are not accessible to all Vermont
2 students.

3 (e) The purpose of this bill is to support and invest in Vermont public
4 schools that serve all children, strengthen community assets, and keep
5 Vermont tax dollars in Vermont.

6 * * * Public School Designation * * *

7 Sec. 2. 16 V.S.A. § 821 is amended to read:

8 § 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY
9 SCHOOLS OR PAY TUITION TO DESIGNATED SCHOOLS

10 (a) Each school district shall maintain one or more approved schools within
11 the district in which elementary education for its resident students in
12 kindergarten through grade six is provided unless:

13 (1) the electorate authorizes the school board to provide for the
14 elementary education of the students by paying tuition ~~in accordance with law~~
15 ~~to one or more~~ up to five designated public elementary or approved nonprofit
16 independent schools in one or more school districts eligible to receive public
17 tuition, pursuant to section 827 of this title;

18 (2) the school district is organized to provide only high school education
19 for its students; or

20 (3) the General Assembly provides otherwise.

21 (b) [Repealed.]

1 (c) Notwithstanding subsection (a) of this section, without previous
2 authorization by the electorate, a school board in a district that operates an
3 elementary school may pay tuition for elementary students who reside near a
4 public elementary school in an adjacent district upon request of the student's
5 parent or guardian, if in the board's judgment the student's education can be
6 more conveniently furnished there due to geographic considerations. Within
7 30 days ~~of~~ after the board's decision, a parent or guardian who is dissatisfied
8 with the decision of the board under this subsection may request a
9 determination by the Secretary, who shall have authority to direct the school
10 board to pay all, some, or none of the student's tuition and whose decision
11 shall be final.

12 ~~(d) Notwithstanding subdivision (a)(1) of this section, the electorate of a~~
13 ~~school district that does not maintain an elementary school may grant general~~
14 ~~authority to the school board to pay tuition for an elementary student at an~~
15 ~~approved independent elementary school or an independent school meeting~~
16 ~~education quality standards pursuant to sections 823 and 828 of this chapter~~
17 ~~upon notice given by the student's parent or legal guardian before April 15 for~~
18 ~~the next academic year. [Repealed.]~~

1 Sec. 3. 16 V.S.A. § 822 is amended to read:

2 § 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR
3 PAY TUITION TO DESIGNATED SCHOOLS

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

6 (1) the electorate authorizes the school board ~~to close an existing high~~
7 ~~school and~~ to provide for the high school education of its students by paying
8 tuition to a up to five designated public or approved nonprofit independent
9 ~~high school schools eligible to receive public tuition, an approved independent~~
10 ~~high school, or an independent school meeting education quality standards, to~~
11 ~~be selected by the parents or guardians of the student, within or outside the~~
12 State pursuant to section 827 of this title; or

13 (2) the school district is organized to provide only elementary education
14 for its students.

15 (b) For purposes of this section, a school district that is organized to
16 provide kindergarten through grade 12 and maintains a program of education
17 for only the first eight years of compulsory school attendance shall be
18 obligated to pay tuition to a designated school or schools for its resident
19 students for at least four additional years.

20 (c)(1) A school district may both maintain a high school and furnish high
21 school education by paying tuition: to a nondesignated independent school that

1 limits enrollment to students who are on an individualized education program
2 or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794,
3 if the local education authority and the individualized education plan team
4 determine that a student has unique educational needs that cannot be served
5 within the district or a nearby public school. Tuition shall be paid pursuant to
6 section 2973 of this title.

7 (A) ~~to a public school as in the judgment of the school board may~~
8 ~~best serve the interests of the students; or [Repealed.]~~

9 (B) ~~to an approved independent school or an independent school~~
10 ~~meeting education quality standards if the school board judges that a student~~
11 ~~has unique educational needs that cannot be served within the district or at a~~
12 ~~nearby public school. [Repealed.]~~

13 (2) ~~The judgment of the board shall be final in regard to the institution~~
14 ~~the students may attend at public cost. [Repealed.]~~

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

16 § 823. ELEMENTARY TUITION

17 (a) Tuition for elementary students shall be paid by the district in which the
18 student is a resident.

19 (1) The For students attending a designated public elementary school,
20 the district shall pay the full tuition charged its students attending a public
21 elementary school.

1 (2) For students attending a designated nonprofit independent school
2 eligible to receive public tuition, the district shall pay the amount of tuition the
3 applicable school charges private payor students, not to exceed the average
4 announced tuition of Vermont union elementary schools for the year of
5 attendance.

6 (b) If a payment made to a designated public elementary school or
7 designated approved nonprofit independent school eligible to receive public
8 tuition is three percent more or less than the calculated net cost per elementary
9 pupil in the receiving school district for the year of attendance, the district shall
10 be reimbursed, credited, or refunded pursuant to section 836 of this title.

11 (c) Notwithstanding the provisions of this subsection or of subsection
12 825(b) of this title, the boards of both the ~~receiving~~ designated schools and
13 sending districts may enter into tuition agreements with terms differing from
14 the provisions of those subsections, provided that the ~~receiving district~~
15 designated school must offer identical terms to all sending districts, and further
16 provided that the statutory provisions apply to any sending district that declines
17 the offered terms.

18 ~~(b) Unless the electorate of a school district authorizes payment of a higher~~
19 ~~amount at an annual or special meeting warned for the purpose, the tuition paid~~
20 ~~to an approved independent elementary school or an independent school~~
21 ~~meeting education quality standards shall not exceed the least of:~~

1 ~~(1) the average announced tuition of Vermont union elementary schools~~
2 ~~for the year of attendance;~~

3 ~~(2) the tuition charged by the approved independent school for the year~~
4 ~~of attendance; or~~

5 ~~(3) the average per pupil tuition the district pays for its other resident~~
6 ~~elementary students in the year in which the student is enrolled in the approved~~
7 ~~independent school.~~

8 Sec. 5. 16 V.S.A. § 824 is amended to read:

9 § 824. HIGH SCHOOL TUITION

10 (a) Tuition for high school students shall be paid by the school district in
11 which the student is a resident.

12 ~~(b)(1) Except~~ For students attending a designated public high school,
13 except as otherwise provided for technical students, the district shall pay the
14 full tuition charged its students attending a public high school.

15 ~~(2) in Vermont or an adjoining state or a public or approved independent~~
16 ~~school in Vermont functioning as an approved area career technical center, or~~
17 ~~an independent school meeting education quality standards; provided: For~~
18 students attending a designated nonprofit independent school eligible to
19 receive public tuition, the district shall pay the amount of tuition the applicable
20 school charges private payor students, not to exceed the average announced
21 tuition of Vermont union high schools for the year of attendance.

1 ~~(1)~~(b) If a payment made to a designated public high school or an
2 ~~independent school meeting education quality standards~~ a designated approved
3 nonprofit independent school eligible to receive tuition is three percent more or
4 less than the calculated net cost per secondary pupil in the receiving school
5 district or independent school for the year of attendance then the district or
6 school shall be reimbursed, credited, or refunded pursuant to section 836 of
7 this title.

8 ~~(2)~~(c) Notwithstanding the provisions of this subsection or of subsection
9 825(b) of this title, the ~~board of the receiving public school district, public or~~
10 ~~approved independent school functioning as an area career technical center, or~~
11 ~~independent school meeting education quality standards~~ boards of both the
12 designated schools and sending districts may enter into tuition agreements ~~with~~
13 ~~the boards of sending districts~~ that have terms differing from the provisions of
14 those subsections, provided that the ~~receiving district or~~ designated school
15 must offer identical terms to all sending districts, and further provided that the
16 statutory provisions apply to any sending district that declines the offered
17 terms.

18 ~~(e) The district shall pay an amount not to exceed the average announced~~
19 ~~tuition of Vermont union high schools for the year of attendance for its~~
20 ~~students enrolled in an approved independent school not functioning as a~~

1 ~~Vermont area career technical center, or any higher amount approved by the~~
2 ~~electorate at an annual or special meeting warned for that purpose.~~

3 (d) If a student enrolled in a designated approved nonprofit independent
4 school receives all educational services outside the designated school through a
5 contracted program, including a tutorial program, the sending district shall be
6 reimbursed for the tuition paid to the designated school less the cost of services
7 provided outside the designated school.

8 Sec. 6. 16 V.S.A. § 826 is amended to read:

9 § 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

10 (a)(1) ~~A school board, or the board of trustees of an independent school~~
11 ~~meeting education quality standards, the board of trustees of an approved~~
12 nonprofit independent school eligible to receive public tuition that proposes to
13 increase tuition charges shall notify the school board of the school district from
14 which its nonresident students come, and the Secretary, of the proposed
15 increase on or before January 15 in any year; such increases shall not become
16 effective without the notice and not until the following school year.

17 (2) The school board of a sending district may vote to reject tuition
18 increases by a designated nonprofit approved independent school if the
19 percentage of the proposed tuition increase is greater than the percentage of the
20 increase in the sending district's annual budget in the same year.

1 (b) A school board or the board of trustees of an independent school
2 meeting education quality standards may establish a separate tuition for one or
3 more special education programs. No such tuition shall be established unless
4 the State Board has by rule defined the program as of a type that may be
5 funded by a separate tuition. Any such tuition shall be announced in
6 accordance with the provisions of subsection (a) of this section. The amount
7 of tuition shall reflect the net cost per pupil in the program. The announcement
8 of tuition shall describe the special education services included or excluded
9 from coverage. Tuition for part-time students shall be reduced proportionally.

10 (c) Excess special education costs incurred by a supervisory union in
11 providing special education services to a student beyond those covered by
12 tuition may be charged to the student's supervisory union for the district of
13 residence. However, only actual costs or actual proportionate costs attributable
14 to the student may be charged.

15 (d) The State Board shall adopt rules relating to the types of special
16 education programs that may establish tuition charges and relating to methods
17 and times of calculating excess charges.

1 Sec. 7. 16 V.S.A. § 827 is amended to read:

2 § 827. DESIGNATION OF A PUBLIC ~~HIGH~~ SCHOOL OR AN
3 APPROVED NONPROFIT INDEPENDENT ~~HIGH~~ SCHOOL
4 ELIGIBLE TO RECEIVE PUBLIC TUITION AS THE PUBLIC
5 ~~HIGH~~ SCHOOL OF A SCHOOL DISTRICT

6 (a) School designation.

7 (1) High school designation. ~~A~~ The school board of a school district not
8 maintaining an approved public high school ~~may~~ shall vote on such terms or
9 conditions as it deems appropriate, to designate ~~three or fewer~~ up to five
10 Vermont approved nonprofit independent or public high schools as the public
11 high school or schools of the district. Only approved nonprofit independent
12 schools eligible to receive public tuition shall be eligible for designation.

13 (2) Elementary school designation. The school board of a school district
14 not maintaining an approved public elementary school shall vote on such terms
15 or conditions as it deems appropriate, to designate up to five Vermont
16 approved nonprofit independent or public elementary schools as the public
17 elementary school or schools of the district. Only approved nonprofit
18 independent schools eligible to receive public tuition shall be eligible for
19 designation.

20 (b) Tuition. Except as otherwise provided in this section, if the board of
21 trustees or the school board of a designated school votes to accept this

1 designation, the school shall be regarded as a public school for tuition purposes
2 under ~~subsection 824(b)~~ sections 823 and 824 of this title, and the sending
3 school district shall pay tuition only to that school, and to any other school
4 designated under this section, until such time as the sending school district or
5 the designated school votes to rescind the designation. An approved
6 independent school that refuses designation is ineligible to receive public
7 tuition.

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

15 ~~(d)~~(c) The One-school districts. Notwithstanding subsection (b) of this
16 section, in districts that designate only one elementary school or one high
17 school, the school board may pay tuition to another public school or approved
18 high nonprofit independent school eligible to receive public tuition, as
19 requested by the parent or legal guardian, if in its the school board's judgment
20 that will best serve the interests of the student. Its decision shall be final in
21 regard to the institution the student may attend. If the board approves the

1 parent's request, the board shall pay tuition for the student ~~in an amount not to~~
2 ~~exceed the least of:~~ pursuant to section 823 of this title for elementary students
3 and section 824 of this title for high school students.

4 ~~(1) The statewide average announced tuition of Vermont union high~~
5 ~~schools.~~

6 ~~(2) The per pupil tuition the district pays to the designated school in the~~
7 ~~year in which the student is enrolled in the nondesignated school. If the district~~
8 ~~has designated more than one school pursuant to this section, then it shall be~~
9 ~~the lowest per pupil tuition paid to a designated school.~~

10 ~~(3) The tuition charged by the approved nondesignated school in the~~
11 ~~year in which the student is enrolled.~~

12 ~~(e)(d) Notwithstanding any other provision of law to the contrary:~~

13 ~~(1) the school districts of Pawlet, Rupert, and Wells may designate a~~
14 ~~public high school located in New York as the public high school of the district~~
15 ~~pursuant to the provisions of this section;~~

16 ~~(2) unless otherwise directed by an affirmative vote of the school~~
17 ~~district, when the Wells Board approves parental requests to pay tuition to a~~
18 ~~nondesignated approved independent or public school, the Board shall pay~~
19 ~~tuition in an amount not to exceed the base education amount as determined~~
20 ~~under section 4011 of this title for the fiscal year in which tuition is being paid;~~
21 ~~and~~

1 ~~(3) unless otherwise directed by an affirmative vote of the school~~
2 ~~district, when the Strafford Board approves a parental request to pay tuition to~~
3 ~~a nondesignated approved independent or public school, the Board shall pay~~
4 ~~tuition to the nondesignated school pursuant to section 824 of this title for the~~
5 ~~year in which the student is enrolled; provided, however, that it shall not pay~~
6 ~~tuition in an amount that exceeds the tuition paid to the designated school for~~
7 ~~the same academic year. [Repealed.]~~

8 Sec. 8. 16 V.S.A. § 828 is amended to read:

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

10 ~~(a)~~ (a) A school district shall not pay the tuition of a student except to a public
11 school, an approved nonprofit independent school eligible to receive public
12 tuition, ~~an independent school meeting education quality standards~~, a tutorial
13 program approved by the State Board, or an approved education program, ~~or~~
14 ~~an independent school in another state or country approved under the laws of~~
15 ~~that state or country~~, that complies with the reporting requirement under
16 subsection 4010(c) of this title, nor shall payment of tuition on behalf of a
17 person be denied on account of age. Unless otherwise provided, a person who
18 is aggrieved by a decision of a school board relating to eligibility for tuition
19 payments, the amount of tuition payable, or the school the person may attend,
20 may appeal to the State Board and its decision shall be final.

1 (b) Notwithstanding subsection (a) of this section, if a student with an
2 individualized education program who requires special education services is
3 placed in an approved independent school located outside Vermont as an
4 appropriate placement and least restrictive environment for the student by the
5 student's individualized education program or by the local education agency
6 (LEA), tuition shall be paid to the approved independent school pursuant to
7 section 2973 of this title.

8 Sec. 9. 16 V.S.A. § 835 is amended to read:

9 § 835. ~~LEMINGTON, BLOOMFIELD, BRUNSWICK, GRANBY,~~
10 ~~GUILDHALL, AND MAIDSTONE; TUITIONING OF~~
11 ~~ELEMENTARY STUDENTS~~

12 ~~The Lemington, Bloomfield, Brunswick, Granby, Guildhall, and Maidstone~~
13 ~~school districts may provide for the elementary education of the students~~
14 ~~residing in their districts by paying tuition to public elementary schools in the~~
15 ~~State of New Hampshire. Notwithstanding the provisions of section 823 of this~~
16 ~~title, school districts affected by this section shall pay the full tuition charged~~
17 ~~by a public elementary school in New Hampshire. [Repealed.]~~

1 * * * Approved Independent Schools Eligible to Receive Public Tuition * * *

2 Sec. 10. 16 V.S.A. § 166 is amended to read:

3 § 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

4 (a) Authority. An independent school may operate and provide elementary
5 education or secondary education if it is either approved or recognized as set
6 forth in this section.

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 (1) Public tuition. An approved nonprofit independent school shall be
14 eligible to receive public tuition only if the following conditions are met:

15 (A) The school is a nonprofit school located in Vermont.

16 (B) The school shall enroll any student with an individualized
17 education program who requires special education services and who is placed
18 in or referred to the approved independent school as an appropriate placement
19 and least restrictive environment for the student by the student's individualized
20 education program team or by the local education agency as required under
21 section 2973 of this title; provided, however, that this requirement shall not

1 apply to an independent school that limits enrollment to students who are on an
2 individualized education program or a plan under Section 504 of the
3 Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to
4 a written agreement between the local education agency and the school.

5 (C) The school has adopted and implemented policies and procedures
6 to comply with the Vermont Public Accommodations Act, 9 V.S.A. chapter
7 139, and the Vermont Fair Employment Practices Act, 21 V.S.A. chapter 5,
8 subchapter 6.

9 (D) The school meets the educational quality standards listed in
10 subsection 165(a) of this title and participates in the education quality
11 standards process of subsection 165(b) of this title. The school shall receive
12 technical assistance in accordance with the provisions of subsection 165(b) of
13 this title but shall not be subject to subdivisions 165(b)(2)–(4) of this title. If
14 the school fails to meet the standards, it shall be ineligible to receive public
15 tuition.

16 (E) All teachers employed by the school are licensed by the Vermont
17 Standards Board for Professional Educators pursuant to chapter 51 of this title.

18 (F) The school maintains a tiered system of academic and behavior
19 supports in accordance with section 2902 of this title.

1 (G) The school has adopted an alcohol and drug abuse policy
2 consistent with the State Board’s alcohol and drugs rules in accordance with
3 section 1165 of this title.

4 (H) The school has adopted disciplinary policies consistent with State
5 Board rules in accordance with section 1162 of this title.

6 (I) The school notifies the truant officer of the school district within
7 which the approved independent school is located pursuant to section 1126 of
8 this title.

9 (J) The school accepts designation if a school district votes to
10 designate the school to serve as its public elementary or high school pursuant
11 to section 827 of this title.

12 (K) The school receives approval from the State Board of Education
13 to receive public tuition. In order to receive State Board approval, the school
14 shall satisfy the conditions of this subdivision (b)(1).

15 (L) An approved independent school in Vermont functioning as an
16 approved area career technical center under chapter 37 of this title shall also
17 qualify as an approved independent school eligible to receive public tuition in
18 order to receive public funds.

19 (2) Kindergarten. On application, the State Board shall approve an
20 independent school that offers kindergarten but no other graded education if it
21 finds, after opportunity for hearing, that the school substantially complies with

1 the Board's rules for approved independent kindergartens. The State Board
2 may delegate to another State agency the authority to evaluate the safety and
3 adequacy of the buildings in which kindergartens are conducted but shall
4 consider all findings and recommendations of any such agency in making its
5 approval decision.

6 ~~(2)~~(3) Term of approval. Approvals under this subsection ~~(b)~~ shall be
7 for a term established by rule of the Board but not greater than five years.

8 ~~(3)~~(4) Disclosure. An approved independent school shall provide to the
9 parent or guardian responsible for each of its students, prior to accepting any
10 money for a student, an accurate statement in writing of its status under this
11 section and a copy of this section. Failure to comply with this provision may
12 create a permissible inference of false advertising in violation of 13 V.S.A.
13 § 2005.

14 ~~(4)~~(5) Enrolled student information. Each approved independent school
15 shall provide to the Secretary on October 1 of each year the names, genders,
16 dates of birth, and addresses of its enrolled students. Within seven days ~~of~~
17 following the termination of a student's enrollment, the approved independent
18 school shall notify the Secretary of the name and address of the student. The
19 Secretary shall notify the appropriate school officials as provided in section
20 1126 of this title.

1 ~~(5)~~(6) Approval revocation, suspension, or conditions. The State Board
2 may revoke, suspend, or impose conditions upon the approval of an approved
3 independent school, after having provided an opportunity for a hearing, for
4 substantial failure to comply with the minimum course of study, for failure to
5 demonstrate that the school has the resources required to meet its stated
6 objectives, for failure to comply with statutory requirements or the Board's
7 rules for approved independent schools, or for failure to report under
8 subdivision ~~(4)~~(5) of this subsection ~~(b)~~. Upon that revocation or suspension,
9 students required to attend school who are enrolled in that school shall become
10 truant unless they enroll in a public school, an approved or recognized
11 independent school, or a home study program.

12 ~~(6)~~(7) Distance learning programs. This subdivision ~~(6)~~ applies to an
13 independent school located in Vermont that offers a distance learning program
14 and that, because of its structure, does not meet some or all the rules of the
15 State Board for approved independent schools. In order to be approved under
16 this subdivision, a school shall meet the standards adopted by rule of the State
17 Board for approved independent schools that can be applied to the applicant
18 school and any other standards or rules adopted by the State Board regarding
19 these types of schools. A school approved under this subdivision shall not be
20 eligible to receive tuition payments from public school districts under chapter
21 21 of this title.

1 ~~(7)~~(8) Fire safety inspection. Approval for independent residential
2 schools under this subsection is also contingent upon proof of the school's
3 satisfactory completion of an annual fire safety inspection by the Department
4 of Public Safety or its designee pursuant to 20 V.S.A. chapter 173, subchapter
5 2. A certificate executed by the inspecting entity, declaring satisfactory
6 completion of the inspection and identifying the date by which a new
7 inspection must occur, shall be posted at the school in a public location. The
8 school shall provide a copy of the certificate to the Secretary of Education after
9 each annual inspection. The school shall pay the actual cost of the inspection
10 unless waived or reduced by the inspecting entity.

11 ~~(8)(A)~~(9) Financial reporting requirements.

12 (A) If an approved independent school experiences any of the
13 following financial reporting events during the period of its approved status,
14 the school shall notify the Secretary of Education within five days after its
15 knowledge of the event unless the failure is de minimis:

16 (i) the school's failure to file its federal or State tax returns when
17 due, after permissible extension periods have been taken into account;

18 (ii) the school's failure to meet its payroll obligations as they are
19 due or to pay federal or State payroll tax obligations as they are due;

20 (iii) the school's failure to maintain required retirement
21 contributions;

1 (iv) the school's use of designated funds for nondesignated
2 purposes;

3 (v) the school's inability to fully comply with the financial terms
4 of its secured installment debt obligations over a period of two consecutive
5 months, including the school's failure to make interest or principal payments
6 as they are due or to maintain any required financial ratios;

7 (vi) the withdrawal or conditioning of the school's accreditation
8 on financial grounds by a private, State, or regional agency recognized by the
9 State Board for accrediting purposes; ~~or~~

10 (vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a);

11 (viii) for schools that limit enrollment to students who are on an
12 individualized education program or a plan under Section 504 of the
13 Rehabilitation Act of 1973, 29 U.S.C. § 794, any change in the school's
14 approved occupational capacity that was used to set the maximum tuition rate
15 if the change results in a surplus of tuition funds.

16 * * *

17 (f) Tuition bills. An approved nonprofit independent school that ~~accepts~~
18 ~~students for whom the district of residence pays tuition under chapter 21 of this~~
19 ~~title~~ is eligible to receive public tuition under subdivision (b)(1) of this section
20 shall bill the sending district monthly for a State-placed student and shall not

1 bill the sending district for any month in which the State-placed student was
2 not enrolled.

3 (g) Tuition students; assessments. An approved nonprofit independent
4 school ~~that accepts students for whom the district of residence pays tuition~~
5 ~~under chapter 21 of this title~~ that is eligible to receive public tuition under
6 subdivision (b)(1) of this section shall use the assessment or assessments
7 required under subdivision 164(9) of this title to measure attainment of
8 standards for student performance of ~~those~~ tuitioned students. In addition, the
9 school shall provide data related to the assessment or assessments as required
10 by the Secretary.

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

12 § 11. CLASSIFICATIONS AND DEFINITIONS

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

14 * * *

15 (36) “Approved nonprofit independent school eligible to receive public
16 tuition” means an approved independent school located in Vermont that is also
17 approved by the State Board of Education to receive public tuition under
18 subdivision 166(b)(1) of this title.

19 * * *

1 (II) spending on eligible school capital project costs pursuant to
2 the State Board of Education’s Rule 6134 for a project that received
3 preliminary approval under section 3448 of this title.

4 (ii) For a project that received final approval for State construction
5 aid under chapter 123 of this title:

6 (I) spending for approved school capital construction during the
7 budget year that represents the district’s share of the project, including interest
8 paid on the debt; or

9 (II) payment during the budget year of interest on funds
10 borrowed under subdivision 563(21) of this title in anticipation of receiving
11 State aid for the project.

12 (iii) Spending that is approved school capital construction
13 spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future
14 approved school capital construction costs, including that portion of tuition
15 paid to an independent school designated as the public high school of the
16 school district pursuant to section 827 of this title for capital construction costs
17 by the independent school that has received approval from the State Board of
18 Education, using the processes for preliminary approval of public school
19 construction costs pursuant to subdivision 3448(a)(2) of this title.

1 (iv) Spending attributable to the cost of planning the merger of a
2 small school, which for purposes of this subdivision means a school with an
3 average grade size of 20 or fewer students, with one or more other schools.

4 (v) Spending attributable to the district's share of special
5 education spending that is not reimbursed as an extraordinary reimbursement
6 under section 2962 of this title for any student in the fiscal year occurring two
7 years prior.

8 ~~(vi) A budget deficit in a district that pays tuition to a public~~
9 ~~school or an approved independent school, or both, for all of its resident~~
10 ~~students in any year in which the deficit is solely attributable to tuition paid for~~
11 ~~one or more new students who moved into the district after the budget for the~~
12 ~~year creating the deficit was passed. [Repealed.]~~

13 ~~(vii) For a district that pays tuition for all of its resident students~~
14 ~~and into which additional students move after the end of the census period~~
15 ~~defined in subdivision (1)(A) of this section, the number of students that~~
16 ~~exceeds the district's most recent average daily membership and for whom the~~
17 ~~district will pay tuition in the subsequent year multiplied by the district's~~
18 ~~average rate of tuition paid in that year. [Repealed.]~~

19 ~~(viii) Tuition paid by a district that does not operate a school and~~
20 ~~pays tuition for all resident students in kindergarten through grade 12, except~~
21 ~~in a district in which the electorate has authorized payment of an amount~~

1 ~~higher than the statutory rate pursuant to subsection 823(b) or 824(c) of this~~
2 ~~title.~~ [Repealed.]

3 * * *

4 * * * Conforming Changes * * *

5 Sec. 13. 16 V.S.A. § 165 is amended to read:

6 § 165. EDUCATION QUALITY STANDARDS; EQUAL EDUCATIONAL
7 OPPORTUNITIES; INDEPENDENT SCHOOL MEETING
8 EDUCATION QUALITY STANDARDS

9 * * *

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

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

3 (A) the student:

4 (i) is enrolled in:

5 (I) a Vermont public school, including a Vermont career
6 technical center; or

7 (II) ~~a public school in another state~~ or an approved nonprofit
8 independent school eligible to receive public tuition that is designated as the
9 public secondary school for the student's district of residence; ~~or~~

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

13 (ii) is assigned to a public school through the High School
14 Completion Program; or

15 (iii) is a home study student;

16 (B) dual enrollment is an element included within the student's
17 personalized learning plan; and

18 (C) the secondary school and the postsecondary institution have
19 determined that the student is sufficiently prepared to succeed in a dual
20 enrollment course, which can be determined in part by the assessment tool or
21 tools identified by the participating postsecondary institution.

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Sec. 15. 16 V.S.A. § 2962 is amended to read:

§ 2962. EXTRAORDINARY SPECIAL EDUCATION REIMBURSEMENT

(e) Under section 2973 of this title, a supervisory union, in its role as the local education agency, may place a student with an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, with ~~certain~~ approved nonprofit independent schools ~~that accept public tuition~~ eligible to receive public tuition. If the approved independent school is entitled to special education cost reimbursement under that section, it may bill the supervisory union for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures threshold as defined in subdivision (a)(2) of this section, the supervisory union shall be entitled to extraordinary reimbursement under this section for that student as if it incurred those costs directly.

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

§ 2973. INDEPENDENT SCHOOL TUITION RATES

(a)(1) Notwithstanding any provision of law to the contrary, an approved nonprofit independent school ~~that accepts~~ eligible to receive public tuition shall enroll any student with an individualized education program who requires

1 special education services and who is placed in the approved independent
2 school as an appropriate placement and least restrictive environment for the
3 student by the student's individualized education program team or by the local
4 education agency (LEA); provided, however, that this requirement shall not
5 apply to an independent school that limits enrollment to students who are on an
6 individualized education program or a plan under Section 504 of the
7 Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to
8 a written agreement between the LEA and the school.

9 * * *

10 Sec. 17. TRANSITION

11 (a) A school district that does not maintain an elementary school or high
12 school and, as of June 30, 2024, paid tuition to the school of a family's choice
13 under the provisions of 16 V.S.A. chapter 21 in effect at that time shall vote to
14 designate up to five approved independent or public schools in accordance
15 with this act not later than July 1, 2025. The district shall begin paying tuition
16 only to designated schools in accordance with this act not later than the 2025–
17 2026 school year.

18 (b) A student enrolled for the 2023–2024 school year in, or who has been
19 accepted for enrollment for the 2024–2025 school year by, an approved
20 independent school shall continue to be entitled to public tuition until such
21 time as the student graduates from that school.

