

1 S.253

2 Introduced by Senator Harrison

3 Referred to Committee on

4 Date:

5 Subject: Education; maintenance of public schools; tuition; approved

6 independent schools

7 Statement of purpose of bill as introduced: This bill proposes to require (1)
8 school district budgets to show the name of schools the district pays tuition to,
9 the number of students tuitioned to each school, and the amount of tuition paid
10 to each school; and (2) approved independent schools to meet specific
11 requirements in order to be approved as eligible to receive public tuition.

12 An act relating to adding transparency to Vermont's tuitioning system

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

14 Sec. 1. 16 V.S.A. § 563 is amended to read:

15 § 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

16 The school board of a school district, in addition to other duties and
17 authority specifically assigned by law:

18 * * *

1 (11)(A) Shall prepare and distribute annually a proposed budget for the
2 next school year according to such major categories as may from time to time
3 be prescribed by the Secretary.

4 (B) In addition to the information required in subdivision (C) of this
5 subdivision (11), any proposed budget shall show the following information if
6 the school district pays tuition for one or more students to attend a public
7 school, approved independent school, or therapeutic approved independent
8 school:

9 (i) name of school or schools receiving tuition from the district;

10 (ii) number of students attending each school; and

11 (iii) total tuition paid to each school.

12 * * *

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

14 § 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

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

18 (b) Approved independent schools. On application, the State Board shall
19 approve an independent school that offers elementary or secondary education
20 if it finds, after opportunity for hearing, that the school provides a minimum
21 course of study pursuant to section 906 of this title and that it substantially

1 complies with all statutory requirements for approved independent schools and
2 the Board's rules for approved independent schools. ~~An independent school~~
3 ~~that intends to accept public tuition shall be approved by the State Board only~~
4 ~~on the condition that the school agrees, notwithstanding any provision of law~~
5 ~~to the contrary, to enroll any student who requires special education services~~
6 ~~and who is placed in or referred to the approved independent school as an~~
7 ~~appropriate placement and least restrictive environment for the student by the~~
8 ~~student's individualized education program team or by the local education~~
9 ~~agency; provided, however, that this requirement shall not apply to an~~
10 ~~independent school that limits enrollment to students who are on an~~
11 ~~individualized education program or a plan under Section 504 of the~~
12 ~~Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to~~
13 ~~a written agreement between the local education agency and the school. Except~~
14 ~~as provided in subdivision (6) of this subsection, the Board's rules must at~~
15 ~~minimum require that the school have the resources required to meet its stated~~
16 ~~objectives, including financial capacity, faculty who are qualified by training~~
17 ~~and experience in the areas in which they are assigned, and physical facilities~~
18 ~~and special services that are in accordance with any State or federal law or~~
19 ~~regulation. Approval may be granted without State Board evaluation in the~~
20 ~~case of any school accredited by a private, State, or regional agency recognized~~
21 ~~by the State Board for accrediting purposes, provided that the State Board shall~~

1 determine that the school complies with all student enrollment provisions
2 required by law.

3 (1) On application, the State Board shall approve an independent school
4 that offers kindergarten but no other graded education if it finds, after
5 opportunity for hearing, that the school substantially complies with the Board's
6 rules for approved independent kindergartens. The State Board may delegate
7 to another State agency the authority to evaluate the safety and adequacy of the
8 buildings in which kindergartens are conducted but shall consider all findings
9 and recommendations of any such agency in making its approval decision.

10 (2) Approvals under this subsection ~~(b)~~ shall be for a term established
11 by rule of the Board but not greater than five years.

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

17 (4) Each approved independent school shall provide to the Secretary on
18 October 1 of each year the names, genders, dates of birth, and addresses of its
19 enrolled students. Within seven days ~~of~~ after the termination of a student's
20 enrollment, the approved independent school shall notify the Secretary of the

1 name and address of the student. The Secretary shall notify the appropriate
2 school officials as provided in section 1126 of this title.

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

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

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

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

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

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

19 (iii) the school's failure to maintain required retirement
20 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 (B)(i) If the Secretary reasonably believes that an approved
12 independent school lacks financial capacity to meet its stated objectives during
13 the period of its approved status, then the Secretary shall notify the school in
14 writing of the reasons for this belief and permit the school a reasonable
15 opportunity to respond.

16 (ii) If the Secretary, after having provided the school a reasonable
17 opportunity to respond, does not find that the school has satisfactorily
18 responded or demonstrated its financial capacity, the Secretary may establish a
19 review team that, with the consent of the school, includes a member of the
20 Council of Independent Schools, to:

1 (I) conduct a school visit to assess the school's financial
2 capacity;

3 (II) obtain from the school such financial documentation as the
4 review team requires to perform its assessment; and

5 (III) submit a report of its findings and recommendations to the
6 State Board.

7 (iii) If the State Board concludes that an approved independent
8 school lacks financial capacity to meet its stated objectives during the period of
9 its approved status, the State Board may take any action that is authorized by
10 this section.

11 (iv) In considering whether an independent school lacks financial
12 capacity to meet its stated objectives during the period of its approved status
13 and what actions the State Board should take if it makes this finding, the State
14 Board may consult with, and draw on the analytical resources of, the Vermont
15 Department of Financial Regulation.

16 (C) Information provided by an independent school under this
17 subsection that is not already in the public domain is exempt from public
18 inspection and copying under the Public Records Act and shall be kept
19 confidential.

20 (9)(A) An approved independent school that intends to accept public
21 tuition shall be approved by the State Board as eligible to receive public tuition

1 only on the condition that the school complies with the following
2 requirements; provided, however, that this subdivision (9) shall not apply to
3 therapeutic approved independent schools as defined in subsection 828(d) of
4 this title:

5 (i) the school agrees, notwithstanding any provision of law to the
6 contrary, to enroll any student who requires special education services and who
7 is placed in or referred to the approved independent school as an appropriate
8 placement and least restrictive environment for the student by the student's
9 individualized education program team or by the local education agency;

10 (ii) the school shall provide local education agencies with a report
11 of any enrollment change for students attending the school on public tuition,
12 including withdrawals, suspensions, or expulsions, provided that the school
13 shall notify a local education agency the same school day if the school is
14 considering expelling a publicly tuitioned student;

15 (iii) the school shall not use an admissions process for publicly
16 tuitioned students that includes mandatory interviews, academic entrance
17 exams, academic history, mandatory campus visits, or consideration of ability
18 to pay for any costs or fees, provided that:

19 (I) the school may request proof of a student's most recently
20 completed grade;

1 (II) the school may set a capacity limit on the number of
2 publicly tuitioned students the school will accept; and

3 (III) the school shall establish a nondiscriminatory selection
4 process when the number of publicly tuitioned student applicants exceeds any
5 capacity limits;

6 (iv) the school shall provide the results of all State-mandated
7 assessments of students on public tuition to the Agency of Education, which
8 shall publish the results on its website in a manner consistent with the
9 publication of the same results for public school students;

10 (v) publicly tuitioned students shall not be charged an application
11 fee, an academic fee, any other fees for academic materials, or any tuition
12 beyond the tuition paid for by the student's district of residence pursuant to
13 chapter 21 of this title;

14 (vi) the school shall make its budget publicly accessible; and

15 (vii) the school shall comply with the reporting requirement under
16 subsection 4010(c) of this title and shall provide the applicable weighting
17 category information for its publicly tuitioned students to the Agency of
18 Education at the same time it provides this information to the sending school
19 district.

20 (B) No private right of action is created by this subdivision (9)
21 against an approved independent school approved by the State Board as

1 eligible to receive public tuition for failure to comply with any of the
2 requirements in this subdivision (9). The State Board is authorized to use its
3 powers under subdivision (5) of this subsection (b) to revoke, suspend, or
4 impose conditions on the eligibility of an approved independent school to
5 receive public tuition for failure to comply with these requirements.
6 Complaints of noncompliance shall be received, investigated, and resolved in
7 accordance with subdivision (5) of this subsection (b) and State Board of
8 Education rules. A person shall not coerce, threaten, interfere with, or
9 otherwise discriminate against any individual who alleges noncompliance with
10 the requirements under this subdivision (9).

11 * * *

12 (e) Harassment, hazing, and bullying policies. The board of trustees of an
13 approved or recognized independent school operating in Vermont shall adopt
14 harassment, hazing, and bullying prevention policies; establish procedures for
15 dealing with harassment, hazing, and bullying of students; and provide notice
16 of these. The provisions of chapter 9, subchapter 5 of this title for public
17 schools shall apply to this subsection, except that the board shall follow its
18 own procedures for adopting policy.

19 (f) Tuition bills. An approved independent school that accepts students for
20 whom the district of residence pays tuition under chapter 21 of this title shall
21 bill the sending district monthly for a State-placed student and shall not bill the

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

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

9 Sec. 3. EFFECTIVE DATE

10 This act shall take effect on July 1, 2026.