

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; special education; funding

4 Statement of purpose of bill as introduced: This bill proposes to require that
5 special education funding by the State is paid to supervisory unions or school
6 districts, based on where the related services are provided; make an
7 appropriation for the University of Vermont to study the feasibility of
8 implementing the census block model for special education funding and direct
9 the University of Vermont to conduct this study; make an appropriation for up
10 to 10 supervisory unions, supervisory districts, or unified union districts to
11 retain the District Management Council for the provision of special education
12 consulting services; and establish a new staff position in the Agency of
13 Education.

14 An act relating to special education

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

16 * * * Payment of Special Education Funding to Supervisory Unions * * *

17 Sec. 1. 16 V.S.A. chapter 101 is amended to read:

18 CHAPTER 101. SPECIAL EDUCATION

19 Subchapter 1. General Provisions

20 * * *

1 § 2948. STATE AID

2 (a) For the payment of general State aid, children with disabilities shall be
3 counted in the same manner as children who do not have disabilities.

4 (b) [Repealed.]

5 (c) Each ~~school district~~ supervisory union shall receive an essential early
6 education grant each school year. Grants shall be distributed according to the
7 estimated number of children from three through five years of age. The State
8 Board by rule shall encourage coordination of services and may set other terms
9 of the grant. Each ~~district~~ supervisory union shall be responsible for the
10 remainder of the costs of providing necessary services under section 2956 of
11 this title. Annually, for each following fiscal year, the essential early education
12 grant shall be increased by the most recent cumulative price index, as of
13 November 15, for State and local government purchases of goods and services
14 from fiscal year 2002 through that following fiscal year, as provided through
15 the State's participation in the New England Economic Project.

16 (d), (e) [Repealed.]

17 (f) If a student is being provided education or special education or both in a
18 school operated by the Department of Corrections, the Department of
19 Corrections shall serve the student as if the Department were the school district
20 of residence of the student.

1 (g) Notwithstanding any law to the contrary, a child with a disability who is
2 residing in a State school, hospital, or community residential facility or in a
3 State-approved private residential facility shall be provided special education
4 in accordance with this chapter by the ~~school district~~ supervisory union in
5 which the facility is located; provided, however, that this special education
6 may be directly provided by the facility in which the child resides when the
7 child's individualized education program and treatment plans indicate that the
8 facility is the most appropriate educational placement for the child. Programs
9 of special education provided by a facility described in this subsection shall be
10 subject to the approval of the Secretary.

11 (h)-(j) [Repealed.]

12 (k) For the costs of students in the custody of the Department of
13 Corrections, the Secretary of Education shall pay for the costs of special
14 education in accordance with the provisions of 28 V.S.A. § 120.

15 (l) [Repealed.]

16 (m) All other State aid to ~~school districts and~~ supervisory unions shall be
17 set forth in subchapter 2 of this chapter.

18 (n) If a student is being provided education or special education, or both in
19 a school operated by the Department for Children and Families, the funding
20 and provision of services shall be the responsibility of the Department for
21 Children and Families and special education procedural responsibility shall be

1 the responsibility of the supervisory union for the school district of residence
2 of the student’s parent, parents, or guardian.

3 § 2949. RECIPROCAL AGREEMENTS WITH OTHER STATES

4 * * *

5 § 2950. STATE-PLACED STUDENTS

6 (a) ~~School district~~ Supervisory Union reimbursement. The supervisory
7 union in which there is a school district responsible for educating a
8 State-placed student under section 1075 of this title may claim and the
9 Secretary shall reimburse 100 percent of all special education costs for the
10 student, including costs for mainstream services. As a condition of receiving
11 this reimbursement, the ~~district~~ supervisory union shall provide documentation
12 in support of its claim, sufficient to enable the Secretary to determine whether
13 to recommend appropriate cost-saving alternatives. The Secretary may
14 approve any costs incurred in educating a State-placed student who is not
15 eligible for special education that are incurred due to the special needs of the
16 student, and, if approved, the Secretary shall pay those costs. When a State
17 agency places and registers a student in a new district, the district and the
18 supervisory union of which it is a member may request and the Agency of
19 Education, or the agency that placed the student, or both, shall provide prompt
20 consultative and technical assistance to the receiving district and the
21 supervisory union.

1 * * *

2 § 2957. SPECIAL EDUCATION ADMINISTRATIVE AND JUDICIAL
3 APPEALS; LIMITATIONS

4 * * *

5 (e) Except as provided in 20 U.S.C. § 1412(a)(10)(C) or unless a court or
6 hearing officer determines otherwise, where a unilateral placement has been
7 made without offering the supervisory union for the school district of residence
8 ~~being offered~~ a reasonable opportunity to evaluate the child and to develop an
9 individualized education program, reimbursement may not be sought for any
10 costs incurred before the ~~school district~~ supervisory union is offered such an
11 opportunity.

12 § 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL
13 PLACEMENTS

14 (a) A school district shall notify the parents and the Secretary when it
15 believes residential placement is a possible option for inclusion in a child's
16 individualized education program.

17 (b) The Secretary may establish from within the Agency a Residential
18 Placement Review Team. At the discretion of the Secretary, other persons not
19 employed by the Agency may be appointed to serve on the Team. The Team
20 shall make every effort to assist ~~school districts~~ supervisory unions and parents

1 in understanding the range of educational options available as early as possible
2 in the planning process for the child. The Team shall:

3 (1) advise ~~school districts~~ supervisory unions on alternatives to
4 residential placement;

5 (2) review each individualized education program calling for residential
6 placement of a student to consider whether the student can be educated in a
7 less restrictive environment;

8 (3) assist ~~school districts~~ supervisory unions in locating cost-effective
9 and appropriate residential facilities where necessary;

10 (4) request a new individualized education program where it believes
11 that appropriate alternatives to residential placement are available; and

12 (5) offer mediation as a means of resolving disputes relating to the need
13 for residential placement or the particular residential facility recommended for
14 a child with a disability.

15 (c) The State Board shall by rule establish policies and procedures for the
16 operations of the Residential Placement Review Team. The rules shall be
17 consistent with federal law and, at minimum, shall include the following:

18 (1) provision for the Secretary to initiate a due process proceeding to
19 challenge the need for residential placement where the team believes that a less
20 restrictive educational placement is both available and appropriate for the child
21 with a disability, and to reimburse the ~~school district~~ supervisory union and the

1 parents or guardian of the child for reasonable costs and attorney’s fees in the
2 event the Secretary does not prevail;

3 (2) provision for technical assistance, a plan for correction, or
4 withholding of funds under this section where a ~~school district~~ supervisory
5 union places a child in a residential facility more expensive than an available
6 and appropriate alternative residential facility; however, such withholding of
7 funds shall not exceed the difference between the cost of the two facilities and
8 the rule shall provide an opportunity for appeal of the withholding; and

9 (3) procedures and timelines to ensure that residential placement of a
10 child with disabilities is not delayed or disrupted so as to adversely affect
11 the child.

12 (d) Whenever a residential placement is determined to be necessary and
13 appropriate for a child with a disability, the Residential Placement Review
14 Team shall include in the child’s individualized education program goals and
15 objectives designed to reintegrate the child into a local school district.

16 (e) Costs for residential placement shall be reimbursed under subchapter 2
17 of this chapter only if the residential facility is approved by the State Board for
18 the purposes of providing special education and related services to children
19 with disabilities.

1 § 2959. RULEMAKING; MEDIATION

2 (a) The State Board shall adopt rules governing the determination of a
3 child's eligibility for special education, accounting and financial reporting
4 standards, program requirements, procedural requirements, and the
5 identification of the ~~district~~ supervisory union or agency responsible for each
6 child with a disability.

7 (b) Subject to rules established by the State Board, the Secretary shall offer
8 mediation to parents, children with disabilities, and districts, supervisory
9 unions, and agencies involved in special education disputes.

10 § 2959a. EDUCATION MEDICAID RECEIPTS

11 (a) It is the intent of the General Assembly that the State of Vermont shall
12 maximize its receipt of federal Medicaid dollars available for reimbursement
13 of medically related services provided to students who are Medicaid eligible.
14 It is further the intent that:

15 (1) each supervisory union identify special education and other students
16 eligible for Medicaid reimbursement and, to the extent possible, submit
17 Medicaid bills for services reimbursement;

18 (2) the Agencies of Education and of Human Services work with local
19 school districts to maximize reimbursements, including services to non-IEP
20 students.

1 (b) A Medicaid Reimbursement Special Fund is established within the
2 Agency of Education. Funds received by the State under this section shall be
3 transferred to the Medicaid Reimbursement Special Fund. The Fund receipts
4 shall be allocated in accordance with this section.

5 (c) At least annually, the Secretary of Education shall pay to each
6 supervisory union submitting Medicaid bills under this section, 50 percent of
7 the reimbursed funds generated by the supervisory union's bill, excluding
8 claims generated by State-placed students. Unless the supervisory union has
9 agreed to use the funds to operate a supervisory unionwide program or to
10 distribute the funds in a different manner, upon receipt, the supervisory union
11 shall distribute the funds to its member school districts based on how the funds
12 were generated. The Secretary may withhold payment due a ~~school district~~
13 supervisory union pursuant to section 2950 of this title for a Medicaid-eligible
14 State-placed student if the ~~school district~~ supervisory union has not submitted a
15 Medicaid claim for reimbursable services for that student.

16 (d) If the amount of Medicaid reimbursement funds received for services
17 provided in the prior State fiscal year exceeds \$25,000,000.00, in addition to
18 the 50 percent of the funds paid to supervisory unions submitting Medicaid
19 bills, 25 percent of the amounts in excess of the \$25,000,000.00 shall be paid
20 into an incentive fund created in the Agency of Education. These funds shall
21 be used for an incentive payment to supervisory unions with student

1 participation rates of over 80 percent in accordance with a formula to be
2 developed by the Agency, in consultation with the Vermont Superintendents
3 Association. For any incentive payments made subsequent to fiscal year 2007,
4 the \$25,000,000.00 threshold of this subsection shall be increased by the
5 percentage increase of the most recent New England Economic Project
6 Cumulative Price Index, as of November 15, for state and local government
7 purchases of goods and services from fiscal year 2005 through the fiscal year
8 for which the payment is being determined, plus an additional one-tenth of one
9 percent.

10 (e) ~~School districts~~ Supervisory unions shall use funds received under this
11 section to pay for reasonable costs of administering the Medicaid claims
12 process, and school districts or supervisory unions shall use funds received
13 under this section for prevention and intervention programs in prekindergarten
14 through grade 12. The programs shall be designed to facilitate early
15 identification of and intervention with children with disabilities and to ensure
16 all students achieve rigorous and challenging standards approved and adopted
17 by the State Board or locally adopted standards. A ~~school district~~ supervisory
18 union shall provide annual written justification to the Secretary of Education of
19 ~~the use of~~ how it or its member districts used the funds. Such annual
20 submission shall show how the funds' use is expressly linked to those
21 provisions of the ~~school district's~~ supervisory union's action plan that directly

1 relate to improving student performance. A ~~school district~~ supervisory union
2 shall include in its annual report the amount of the prior year's Medicaid
3 reimbursement revenues and the use of Medicaid funds consistent with the
4 purposes set forth in this subsection.

5 (f) Up to 30 percent of Medicaid reimbursements received under this
6 section shall be available for administrative costs of the Agencies of Education
7 and of Human Services related to the collection, processing, and reporting of
8 education Medicaid reimbursements and statewide programs. The Secretaries
9 of Education and of Human Services shall expend monies from the Fund only
10 as appropriated by the General Assembly.

11 (g) Remaining reimbursed funds shall be deposited into the Education
12 Fund.

13 * * *

14 Subchapter 2. Aid for Special Education and Support Services

15 § 2961. STANDARD MAINSTREAM BLOCK GRANTS

16 (a) Each ~~town school district, city school district, union school district,~~
17 ~~unified union school district, incorporated school district, and the member~~
18 ~~school districts of an interstate school district~~ supervisory union shall be
19 eligible to receive a standard mainstream block grant each school year. The
20 mainstream block grant shall be equal to the supervisory union's mainstream
21 salary standard multiplied by 60 percent.

1 (b) The ~~district,~~ supervisory union shall expend all such assistance for
2 special education services or for remedial or compensatory services in
3 accordance with its service plan as required under section 2964 of this title. It
4 shall likewise expend, from local funds, an amount not less than 40 percent of
5 its mainstream salary standard for special education.

6 (c) As used in this section:

7 (1) “Mainstream salary standard” means:

8 (A) the ~~district’s~~ supervisory union’s full-time equivalent staffing for
9 special education for the preceding year multiplied by the average special
10 education teacher salary in the State for the preceding year; plus

11 (B) ~~its share, prorated according to average daily membership among~~
12 ~~the member districts of the supervisory union,~~ of an amount equal to the
13 average special education administrator salary in the State for the preceding
14 year, plus, for any supervisory union ~~or supervisory district~~ with member
15 districts which have in the aggregate more than 1,500 average daily
16 membership, ~~the school district’s prorated share of~~ a fraction of an additional
17 full-time equivalent salary for a special education administrator, the numerator
18 of which is the aggregate average daily membership ~~in~~ of the supervisory
19 ~~union or supervisory district~~ union’s member districts minus 1,500, and the
20 denominator of which is the aggregate average daily membership of member

1 districts in the largest supervisory union ~~or supervisory district~~ in the State
2 minus 1,500.

3 (2) “Full-time equivalent staffing” means 9.75 special education
4 teaching positions per 1,000 average daily membership.

5 (d) If in any fiscal year, a ~~district that maintains a school~~ supervisory union
6 in which a school is maintained does not expend an amount equal to its
7 mainstream salary standard on special education expenditures, the ~~district~~
8 supervisory union may expend the balance, including the matching funds, to
9 provide support and remedial services pursuant to section 2902 or 2903 of this
10 title. A ~~district~~ supervisory union choosing to expend funds in this way shall
11 submit a report describing the services provided and their costs with the final
12 financial report submitted under section 2968 of this title.

13 § 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

14 (a) Except as otherwise provided in this subchapter, extraordinary services
15 reimbursement shall be payable, based on where the related cost is incurred, to
16 ~~each~~ a town school district, city school district, union school district, unified
17 union school district, incorporated school district, the member school districts
18 of an interstate school district, and unorganized town or gore or to a
19 supervisory union.

1 (b) The amount of extraordinary services reimbursement provided to each
2 district or supervisory union shall be equal to 90 percent of its extraordinary
3 special education expenditures.

4 (c) As used in this subchapter, “extraordinary special education
5 expenditures” means a school district’s or supervisory union’s allowable
6 expenditures that for any one child exceed \$50,000.00 for a fiscal year. In this
7 subsection, child means a student with disabilities who is three years of age or
8 older in the current school year. The State Board shall define allowable
9 expenditures that shall include any expenditures required under federal law,
10 and any costs of mediation conducted by a mediator who is approved by the
11 Secretary.

12 (d) [Repealed.]

13 § 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

14 (a) Based on where the related cost is incurred, Each ~~each~~ town school
15 district, city school district, union school district, unified union school district,
16 incorporated school district, the member school districts of an interstate school
17 district, and unorganized town or gore or supervisory union shall receive a
18 special education expenditures reimbursement grant each school year.

19 (b) The amount of a school district’s or supervisory union’s special
20 education expenditures reimbursement shall be equal to the total of its special
21 education expenditures multiplied by the reimbursement rate for that year.

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§ 2963a. EXCEPTIONAL CIRCUMSTANCES

(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a ~~school district~~ supervisory union for 80 percent of the following expenditures:

(1) Costs not eligible for reimbursement under section 2962 of this title for each student causing the ~~school district~~ supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a ~~school district~~ supervisory union to be eligible for reimbursement under this section, the total costs of the ~~district~~ supervisory union eligible for extraordinary services reimbursement must equal or exceed 15 percent of the total costs eligible for ~~state~~ State assistance under sections 2961, 2962, and 2963 of this title.

(2) The costs incurred by the ~~school district~~ supervisory union in placing and maintaining a student in a program operated by the Vermont Center for the Deaf and Hard of Hearing.

(b) An eligible ~~school district~~ supervisory union may apply to the Secretary to receive reimbursement under this section. The Secretary shall award reimbursement to a ~~school district~~ supervisory union under this section if the Secretary makes a determination that the ~~school district~~ supervisory union considered all the cost-effective and appropriate available alternatives for

1 placement and programs for students before incurring these costs. A decision
2 of the Secretary shall be final.

3 § 2964. SERVICE PLAN

4 (a) As a condition of receiving assistance under this subchapter, a
5 supervisory union shall file a service plan with the Secretary annually on or
6 before October 15. The service plan shall contain the anticipated special
7 education expenditures for the following school year. The plan shall be in a
8 form prescribed by the Secretary and shall include information on services
9 planned and anticipated expenditures.

10 (b) If a supervisory union fails to file a service plan by October 15, the
11 Secretary may withhold any funds due the supervisory district ~~or school~~
12 ~~districts~~ under this title until a service plan is filed and accepted by the
13 Secretary as properly completed.

14 § 2965. WITHHOLDING OF AID

15 If a ~~district~~ supervisory union or agency fails to meet its legally established
16 obligations toward a child with a disability or the child's parent, and as a result
17 the Agency of Education incurs costs to meet these obligations beyond those
18 otherwise incurred under this chapter, the Secretary shall withhold the amount
19 of funds incurred from any grants due the ~~district~~ supervisory union or agency
20 under this subchapter.

1 § 2967. AID PROJECTION; STATE SHARE

2 (a) On or before December 15, the Secretary shall publish an estimate, by
3 ~~town school district, city school district, union school district, unified union~~
4 ~~school district, incorporated school district, and the member school districts of~~
5 ~~an interstate school district~~ supervisory union, of the amount of State
6 assistance necessary to fully fund sections 2961 through 2963 of this title in the
7 ensuing school year. The provisions of 2 V.S.A. § 20(d) (expiration of
8 required reports) shall not apply to the report to be made under this subsection.

9 * * *

10 § 2968. REPORTS

11 (a) On or before November 15, March 15, and August 1 of each school
12 year, each supervisory union ~~and school district~~ shall file a financial report
13 with the Secretary in a form prescribed by the Secretary. The report shall
14 describe total expenditures for special education actually incurred during the
15 preceding period, and shall describe revenues derived from different funding
16 sources, including federal assistance, State assistance under this ~~section~~
17 chapter, and local effort.

18 (b) If a supervisory union ~~or school district~~ fails to file a complete report by
19 August 1, until the properly completed August 1 report is filed and accepted by
20 the Secretary, the Secretary may withhold any funds due the supervisory union
21 ~~or school district~~ under this title and shall subtract \$100.00 per business day

1 from funds due to the supervisory union ~~or school district~~ under this title for
2 that fiscal year. The Secretary may waive the \$100.00 penalty required under
3 this subsection upon appeal by the supervisory union ~~or school district~~. The
4 Secretary shall establish procedures for administration of this subsection.

5 (c) The Secretary shall review and monitor the reports received pursuant to
6 subsection (a) of this section as well as the service plans received pursuant to
7 section 2964 of this title, and shall assist supervisory unions ~~and school~~
8 ~~districts~~ to complete and submit these documents in a timely and accurate
9 fashion.

10 (d) Special education receipts and expenditures shall be included within the
11 audits required of supervisory unions ~~and school districts~~ pursuant to ~~sections~~
12 section 323 and 563(17) of this title.

13 § 2969. PAYMENTS

14 (a) On or before August 15, December 15, and April 15 of each school
15 year, the State Treasurer shall withdraw from the Education Fund, based on
16 warrant of the Commissioner of Finance and Management, and shall forward
17 to each ~~school district~~ supervisory union, the amount of State assistance
18 estimated in accordance with State Board rules to be necessary to fund sections
19 2961 through 2963a of this title in the current fiscal period. The State Board
20 shall by rule ensure that the amount of such assistance shall be adjusted to
21 compensate for any overpayments or underpayments determined, after review

1 and acceptance of the reports submitted under section 2968 of this title, to have
2 been made in previous periods. Notwithstanding this subsection, failure to
3 submit the reports within the timelines established by subsection 2968(a) of
4 this title shall result in the withholding of any payments until the report is filed.

5 (b) ~~{Deleted.}~~ [Repealed.]

6 (c) For the purpose of meeting the needs of students with emotional
7 behavioral problems, each fiscal year the Secretary shall use for training,
8 program development, and building school and regional capacity, up to one
9 percent of the State funds appropriated under this subchapter.

10 (d) For the training of teachers, administrators, and other personnel in the
11 identification and evaluation of, and provision of education services to children
12 who require educational supports, each fiscal year the Secretary shall use up to
13 0.75 percent of the State funds appropriated under this subchapter. In order to
14 set priorities for the use of these funds, the Secretary shall identify effective
15 practices and areas of critical need. The Secretary may expend up to five
16 percent of these funds for statewide training and shall distribute the remaining
17 funds to ~~school districts or~~ supervisory unions.

18 (e) ~~School districts and supervisory~~ Supervisory unions that apply for funds
19 under this section must submit a plan for training that will result in lasting
20 changes in their school systems and give assurances that at least 50 percent of
21 the costs of training, including in-kind costs, will be assumed by the applicant.

1 The Secretary shall establish written procedures and criteria for the award of
2 such funds. In addition, the Secretary may identify schools most in need of
3 training assistance and may pay for 100 percent of the assistance ~~provided to~~
4 the supervisory union for these schools to fund the provision of training
5 assistance for these schools.

6 §§ 2970, 2971. [RESERVED FOR FUTURE USE.].

7 * * *

8 § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

9 (a) Annually, the Secretary shall report to the State Board regarding:

10 (1) special education expenditures by ~~school districts~~ supervisory
11 unions;

12 (2) the rate of growth or decrease in special education costs, including
13 the identity of ~~high high- and low spending districts~~ low-spending supervisory
14 unions;

15 (3) results for special education students;

16 (4) the availability of special education staff;

17 (5) the consistency of special education program implementation
18 statewide;

19 (6) the status of the education support systems in ~~school districts~~
20 supervisory unions; and

1 (7) a statewide summary of the special education student count,
2 including:

3 (A) the percentage of the total average daily membership represented
4 by special education students statewide and by ~~school district~~ supervisory
5 union;

6 (B) the percentage of special education students by disability
7 category; and

8 (C) the percentage of special education students ~~by in-district~~
9 placement, served by public schools within the supervisory union, by day
10 placement, and by residential placement.

11 (b) The Secretary's report shall include the following data for both ~~high~~
12 high- and low-spending districts low-spending supervisory unions:

13 (1) each ~~district's~~ supervisory union's special education staff-to-child
14 count ratios as compared to the State average, including a breakdown of ratios
15 by staffing categories;

16 (2) each ~~district's~~ supervisory union's percentage of students in day
17 programs and residential placements as compared to the State average of
18 students in those placements and information about the categories of
19 disabilities for the students in such placements;

20 (3) whether the ~~district~~ supervisory union was in compliance with
21 section 2901 of this title;

1 (4) any unusual community characteristics in each ~~district~~ supervisory
2 union relevant to special education placements;

3 (5) a review of ~~high high-~~ and ~~low-spending districts'~~ low-spending
4 supervisory unions' special education student count patterns over time;

5 (6) a review of the ~~district's~~ supervisory union's compliance with
6 federal and State requirements to provide a free, appropriate public education
7 to eligible students; and

8 (7) any other factors affecting its spending.

9 (c) The Secretary shall review ~~low-spending districts~~ low-spending
10 supervisory unions to determine the reasons for their spending patterns and
11 whether those ~~districts~~ supervisory unions used cost-effective strategies
12 appropriate to replicate in other ~~districts~~ supervisory unions.

13 (d) For the purposes of this section, a “~~high-spending district~~ high-spending
14 supervisory union” is a ~~school district~~ supervisory union that, in the previous
15 school year, spent at least 20 percent more than the statewide average of
16 special education eligible costs per average daily membership. Also for the
17 purposes of this section, a “~~low-spending district~~ low-spending supervisory
18 union” is a ~~school district~~ supervisory union that, in the previous school year,
19 spent no more than 80 percent of the statewide average of special education
20 eligible costs per average daily membership.

1 (e) The Secretary and Agency staff shall assist the ~~high-spending districts~~
2 high-spending supervisory unions, that have been identified in subsection (a)
3 of this section and have not presented an explanation for their spending that is
4 satisfactory to the Secretary, to identify reasonable alternatives and to develop
5 a remediation plan. Development of the remediation plan shall include an
6 on-site review. The ~~district~~ supervisory union shall have two years to make
7 progress on the remediation plan. At the conclusion of the two years or earlier,
8 the ~~district~~ supervisory union shall report its progress on the remediation plan.

9 (f) Within 30 days of receipt of the ~~district's~~ supervisory union's report of
10 progress, the Secretary shall notify the ~~district~~ supervisory union that its
11 progress is either satisfactory or not satisfactory.

12 (1) If the ~~district~~ supervisory union fails to make satisfactory progress,
13 the Secretary shall notify the ~~district~~ supervisory union that, in the ensuing
14 school year, the Secretary shall withhold 10 percent of the ~~district's~~
15 supervisory union's special education expenditures reimbursement pending
16 satisfactory compliance with the plan.

17 (2) If the district fails to make satisfactory progress after the first year of
18 withholding, 10 percent shall be withheld in each subsequent year pending
19 satisfactory compliance with the plan; provided, however, before funds are
20 withheld in any year under this subdivision (f)(2), the ~~district~~ supervisory
21 union shall explain to the State Board either the reasons the ~~district~~ supervisory

1 union believes it made satisfactory progress on the remediation plan or the
2 reasons it failed to do so. The State Board’s decision whether to withhold
3 funds under this subdivision shall be final.

4 (3) If the ~~district~~ supervisory union makes satisfactory progress under
5 any subdivision of this subsection, the Secretary shall release to the ~~district~~
6 supervisory union any special education expenditures reimbursement withheld
7 for the prior fiscal year only.

8 (g) Within 10 days after receiving the Secretary’s notice under subdivision
9 (f)(1) of this section, the ~~district~~ supervisory union may challenge the
10 Secretary’s decision by filing a written objection to the State Board outlining
11 the reasons the ~~district~~ supervisory union believes it made satisfactory progress
12 on the remediation plan. The Secretary may file a written response within 10
13 days after the ~~district’s~~ supervisory union’s objection is filed. The State Board
14 may give the ~~district~~ supervisory union and the Secretary an opportunity to be
15 heard. The State Board’s decision shall be final. The State shall withhold no
16 portion of the ~~district’s~~ supervisory union’s reimbursement before the State
17 Board issues its decision under this subsection.

18 (h) Nothing in this section shall prevent a ~~school-district~~ supervisory union
19 from seeking and receiving the technical assistance of Agency staff to reduce
20 its special education spending.

1 § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL
2 ASSISTANCE

3 The Secretary may use up to two percent of the funds appropriated for
4 special education expenditures, as that term is defined in subsection 2967(b) of
5 this title, to directly assist ~~school districts~~ supervisory unions with special
6 education expenditures of an unusual or unexpected nature. These funds shall
7 not be used for exceptional circumstances that are funded under section 2963a
8 of this title. The Secretary's decision regarding a ~~district's~~ supervisory union's
9 eligibility for and amount of assistance shall be final.

10 * * * Study of Funding for Special Education * * *

11 **Sec. 2. STUDY OF FUNDING FOR SPECIAL EDUCATION**

12 (a) Study. The Agency of Education shall contract with the University of
13 Vermont for a study of special education funding and practice. The University
14 shall evaluate the feasibility of implementing the census block model of
15 funding, or a variation of this model as it deems appropriate, for special
16 education in Vermont, including the advantages, disadvantages, and policy
17 considerations. The University shall develop a special education funding
18 model recommendation for Vermont, which shall be designed to provide
19 incentives for desirable practices and stimulate innovation in the delivery of
20 services and shall take into account any factors the University determines
21 relevant. The University shall conduct its evaluation and develop its

1 recommendation in collaboration with the Agency of Education and interested
2 superintendents, special educators, school business and administrative staff,
3 and special education staff from the Vermont State Colleges and independent
4 schools. The University shall present its findings and recommendation to the
5 General Assembly and the Agency of Education by December 15, 2017.

6 (b) Funding. The Agency of Education shall allocate out of its fiscal year
7 2017 budget a sum of \$40,000.00 to provide funding to the University of
8 Vermont for the purposes set forth in this section. Any application of funds by
9 the University for the purpose of administrative overhead shall be capped at
10 five percent of the total sum allocated pursuant to this section.

11 * * * Appropriation for the District Management Council * * *

12 Sec. 3. APPROPRIATION FOR THE DISTRICT MANAGEMENT
13 COUNCIL TO PROVIDE CONSULTING SERVICES ON THE
14 DELIVERY OF SPECIAL EDUCATION SERVICES

15 (a) Consulting Services. The Agency of Education shall contract with the
16 District Management Council for the provision by the Council of special
17 education consulting services to up to 10 supervisory unions, supervisory
18 districts, or unified union school districts. The Agency, in consultation with
19 the Council and interested districts and supervisory unions, shall select, as
20 member districts and supervisory unions for the study, at least three existing
21 supervisory unions or supervisory districts with an average daily membership

1 of 1,500 students or more and at least three unified union school districts
2 formed pursuant to 2015 Acts and Resolves No. 46. In no event shall the
3 Agency include a district or supervisory union that does not provide an
4 equivalent match equal to 50 percent of the value of the Council's services to
5 the district or supervisory union; the other 50 percent being funded by the
6 appropriation provided in this section. This financial contribution by districts
7 or supervisory unions may be in the form of transition grants or other
8 appropriate grant funding and may, at the discretion of the district's or
9 supervisory union's board of directors, be allocated across the district's or
10 supervisory union's 2017 and 2018 fiscal years. The Council shall present a
11 final report with recommendations on the delivery of special education
12 services to the General Assembly and the Agency of Education on or before
13 October 1, 2017. The Council shall provide any and all research and data
14 compiled during the course of its work pursuant to this section to the Agency
15 of Education.

16 (b) Appropriation. Notwithstanding any provision to the contrary in
17 16 V.S.A. § 4025 of this title, the sum of \$250,000.00 is appropriated from the
18 Education Fund for fiscal year 2017 to the Agency of Education. The Agency
19 shall administer the funds in accordance with this section and any unused
20 funds shall revert to the Education Fund.

1 * * * Agency of Education Special Education Staff * * *

2 Sec. 4. CREATION OF AGENCY OF EDUCATION STAFF POSITION

3 To the extent funding is made available in the Agency of Education's
4 budget, one position shall be transferred and converted from the State's
5 employee position pool to the Agency of Education for the purpose of
6 administering Secs. 2 and 3 of this act as well as assisting with the
7 administration of the flexible pathways programs in 16 V.S.A. chapter 23,
8 subchapter 2.

9 * * * Effective Dates * * *

10 Sec. 5. EFFECTIVE DATES

11 Secs. 2, 3, 4, and 5 shall take effect on July 1, 2016. Sec. 1 shall take effect
12 on July 1, 2017.