

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred House Bill No. 859
3 entitled “An act relating to special education” respectfully reports that it has
4 considered the same and recommends that the Senate propose to the House that
5 the act be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

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

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

9 CHAPTER 101. SPECIAL EDUCATION

10 Subchapter 1. General Provisions

11 * * *

12 § 2948. STATE AID

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

15 (b) [Repealed.]

16 (c) Each ~~school district~~ supervisory union shall receive an essential early
17 education grant each school year. Grants shall be distributed according to the
18 estimated number of children from three through five years of age. The State
19 Board by rule shall encourage coordination of services and may set other terms
20 of the grant. Each ~~district~~ supervisory union shall be responsible for the
21 remainder of the costs of providing necessary services under section 2956 of

1 this title. Annually, for each following fiscal year, the essential early education
2 grant shall be increased by the most recent cumulative price index, as of
3 November 15, for State and local government purchases of goods and services
4 from fiscal year 2002 through that following fiscal year, as provided through
5 the State's participation in the New England Economic Project.

6 (d), (e) [Repealed.]

7 (f) If a student is being provided education or special education or both in a
8 school operated by the Department of Corrections, the Department of
9 Corrections shall serve the student as if the Department were the school district
10 of residence of the student.

11 (g) Notwithstanding any law to the contrary, a child with a disability who is
12 residing in a State school, hospital, or community residential facility or in a
13 State-approved private residential facility shall be provided special education
14 in accordance with this chapter by the ~~school district~~ supervisory union in
15 which the facility is located; provided, however, that this special education
16 may be directly provided by the facility in which the child resides when the
17 child's individualized education program and treatment plans indicate that the
18 facility is the most appropriate educational placement for the child. Programs
19 of special education provided by a facility described in this subsection shall be
20 subject to the approval of the Secretary.

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

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

4 (l) [Repealed.]

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

7 (n) If a student is being provided education or special education, or both in
8 a school operated by the Department for Children and Families, the funding
9 and provision of services shall be the responsibility of the Department for
10 Children and Families and special education procedural responsibility shall be
11 the responsibility of the supervisory union for the school district of residence
12 of the student's parent, parents, or guardian.

13 § 2949. RECIPROCAL AGREEMENTS WITH OTHER STATES

14 * * *

15 § 2950. STATE-PLACED STUDENTS

16 (a) ~~School district~~ Supervisory Union reimbursement. The supervisory
17 union in which there is a school district responsible for educating a
18 State-placed student under section 1075 of this title may claim and the
19 Secretary shall reimburse 100 percent of all special education costs for the
20 student, including costs for mainstream services. As a condition of receiving
21 this reimbursement, the ~~district~~ supervisory union shall provide documentation

1 in support of its claim, sufficient to enable the Secretary to determine whether
2 to recommend appropriate cost-saving alternatives. The Secretary may
3 approve any costs incurred in educating a State-placed student who is not
4 eligible for special education that are incurred due to the special needs of the
5 student, and, if approved, the Secretary shall pay those costs. When a State
6 agency places and registers a student in a new district, the district and the
7 supervisory union of which it is a member may request and the Agency of
8 Education, or the agency that placed the student, or both, shall provide prompt
9 consultative and technical assistance to the receiving district and the
10 supervisory union.

11 * * *

12 § 2957. SPECIAL EDUCATION ADMINISTRATIVE AND JUDICIAL
13 APPEALS; LIMITATIONS

14 * * *

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

1 § 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL
2 PLACEMENTS

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

6 (b) The Secretary may establish from within the Agency a Residential
7 Placement Review Team. At the discretion of the Secretary, other persons not
8 employed by the Agency may be appointed to serve on the Team. The Team
9 shall make every effort to assist ~~school districts~~ supervisory unions and parents
10 in understanding the range of educational options available as early as possible
11 in the planning process for the child. The Team shall:

12 (1) advise ~~school districts~~ supervisory unions on alternatives to
13 residential placement;

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

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

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

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

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

7 (1) provision for the Secretary to initiate a due process proceeding to
8 challenge the need for residential placement where the team believes that a less
9 restrictive educational placement is both available and appropriate for the child
10 with a disability, and to reimburse the ~~school district~~ supervisory union and the
11 parents or guardian of the child for reasonable costs and attorney's fees in the
12 event the Secretary does not prevail;

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

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

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

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

9 § 2959. RULEMAKING; MEDIATION

10 (a) The State Board shall adopt rules governing the determination of a
11 child’s eligibility for special education, accounting and financial reporting
12 standards, program requirements, procedural requirements, and the
13 identification of the ~~district~~ supervisory union or agency responsible for each
14 child with a disability.

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

18 § 2959a. EDUCATION MEDICAID RECEIPTS

19 (a) It is the intent of the General Assembly that the State of Vermont shall
20 maximize its receipt of federal Medicaid dollars available for reimbursement

1 of medically related services provided to students who are Medicaid eligible.

2 It is further the intent that:

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

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

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

13 (c) At least annually, the Secretary of Education shall pay to each
14 supervisory union submitting Medicaid bills under this section, 50 percent of
15 the reimbursed funds generated by the supervisory union's bill, excluding
16 claims generated by State-placed students. Unless the supervisory union has
17 agreed to use the funds to operate a supervisory unionwide program or to
18 distribute the funds in a different manner, upon receipt, the supervisory union
19 shall distribute the funds to its member school districts based on how the funds
20 were generated. The Secretary may withhold payment due a ~~school district~~
21 supervisory union pursuant to section 2950 of this title for a Medicaid-eligible

1 State-placed student if the ~~school district~~ supervisory union has not submitted a
2 Medicaid claim for reimbursable services for that student.

3 (d) If the amount of Medicaid reimbursement funds received for services
4 provided in the prior State fiscal year exceeds \$25,000,000.00, in addition to
5 the 50 percent of the funds paid to supervisory unions submitting Medicaid
6 bills, 25 percent of the amounts in excess of the \$25,000,000.00 shall be paid
7 into an incentive fund created in the Agency of Education. These funds shall
8 be used for an incentive payment to supervisory unions with student
9 participation rates of over 80 percent in accordance with a formula to be
10 developed by the Agency, in consultation with the Vermont Superintendents
11 Association. For any incentive payments made subsequent to fiscal year 2007,
12 the \$25,000,000.00 threshold of this subsection shall be increased by the
13 percentage increase of the most recent New England Economic Project
14 Cumulative Price Index, as of November 15, for state and local government
15 purchases of goods and services from fiscal year 2005 through the fiscal year
16 for which the payment is being determined, plus an additional one-tenth of one
17 percent.

18 (e) ~~School districts~~ Supervisory unions shall use funds received under this
19 section to pay for reasonable costs of administering the Medicaid claims
20 process, and school districts or supervisory unions shall use funds received
21 under this section for prevention and intervention programs in prekindergarten

1 through grade 12. The programs shall be designed to facilitate early
2 identification of and intervention with children with disabilities and to ensure
3 all students achieve rigorous and challenging standards approved and adopted
4 by the State Board or locally adopted standards. A ~~school district~~ supervisory
5 union shall provide annual written justification to the Secretary of Education of
6 ~~the use of~~ how it or its member districts used the funds. Such annual
7 submission shall show how the funds' use is expressly linked to those
8 provisions of the ~~school district's~~ supervisory union's action plan that directly
9 relate to improving student performance. A ~~school district~~ supervisory union
10 shall include in its annual report the amount of the prior year's Medicaid
11 reimbursement revenues and the use of Medicaid funds consistent with the
12 purposes set forth in this subsection.

13 (f) Up to 30 percent of Medicaid reimbursements received under this
14 section shall be available for administrative costs of the Agencies of Education
15 and of Human Services related to the collection, processing, and reporting of
16 education Medicaid reimbursements and statewide programs. The Secretaries
17 of Education and of Human Services shall expend monies from the Fund only
18 as appropriated by the General Assembly.

19 (g) Remaining reimbursed funds shall be deposited into the Education
20 Fund.

21 * * *

1 Subchapter 2. Aid for Special Education and Support Services

2 § 2961. STANDARD MAINSTREAM BLOCK GRANTS

3 (a) Each ~~town school district, city school district, union school district,~~
4 ~~unified union school district, incorporated school district, and the member~~
5 ~~school districts of an interstate school district~~ supervisory union shall be
6 eligible to receive a standard mainstream block grant each school year. The
7 mainstream block grant shall be equal to the supervisory union's mainstream
8 salary standard multiplied by 60 percent.

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

14 (c) As used in this section:

15 (1) "Mainstream salary standard" means:

16 (A) the ~~district's~~ supervisory union's full-time equivalent staffing for
17 special education for the preceding year multiplied by the average special
18 education teacher salary in the State for the preceding year; plus

19 (B) ~~its share, prorated according to average daily membership among~~
20 ~~the member districts of the supervisory union,~~ of an amount equal to the
21 average special education administrator salary in the State for the preceding

1 year, plus, for any supervisory union ~~or supervisory district~~ with member
2 districts which have in the aggregate more than 1,500 average daily
3 membership, ~~the school district's prorated share of~~ a fraction of an additional
4 full-time equivalent salary for a special education administrator, the numerator
5 of which is the aggregate average daily membership ~~in~~ of the supervisory
6 ~~union or supervisory district~~ union's member districts minus 1,500, and the
7 denominator of which is the aggregate average daily membership of member
8 districts in the largest supervisory union ~~or supervisory district~~ in the State
9 minus 1,500.

10 (2) "Full-time equivalent staffing" means 9.75 special education
11 teaching positions per 1,000 average daily membership.

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

1 § 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

2 (a) Except as otherwise provided in this subchapter, extraordinary services
3 reimbursement shall be payable, based on where the related cost is incurred, to
4 ~~each~~ a town school district, city school district, union school district, unified
5 union school district, incorporated school district, the member school districts
6 of an interstate school district, and unorganized town or gore or to a
7 supervisory union.

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

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

19 (d) [Repealed.]

1 § 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

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

7 (b) The amount of a school district's or supervisory union's special
8 education expenditures reimbursement shall be equal to the total of its special
9 education expenditures multiplied by the reimbursement rate for that year.

10 * * *

11 § 2963a. EXCEPTIONAL CIRCUMSTANCES

12 (a) In lieu of reimbursement under section 2963 of this title, the Secretary
13 shall reimburse a school district or supervisory union for 80 percent of the
14 ~~following expenditures:~~~~(1) Costs~~ costs not eligible for reimbursement under
15 section 2962 of this title for each student causing the school district or
16 supervisory union to be eligible for extraordinary services reimbursement
17 pursuant to that section. However, in order for a school district or supervisory
18 union to be eligible for reimbursement under this section, the total costs of the
19 school district or supervisory union eligible for extraordinary services
20 reimbursement must equal or exceed 15 percent of the total costs eligible for
21 ~~state~~ State assistance under sections 2961, 2962, and 2963 of this title.

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

4 (b) An eligible school district or supervisory union may apply to the
5 Secretary to receive reimbursement under this section. The Secretary shall
6 award reimbursement to a school district or supervisory union under this
7 section if the Secretary makes a determination that school district or
8 supervisory union considered all the cost-effective and appropriate available
9 alternatives for placement and programs for students before incurring these
10 costs. A decision of the Secretary shall be final.

11 § 2964. SERVICE PLAN

12 (a) As a condition of receiving assistance under this subchapter, a
13 supervisory union shall file a service plan with the Secretary annually on or
14 before October 15. The service plan shall contain the anticipated special
15 education expenditures for the following school year for the supervisory union
16 and its member districts. The plan shall be in a form prescribed by the
17 Secretary and shall include information on services planned and anticipated
18 expenditures.

19 (b) If a supervisory union fails to file a service plan by October 15, the
20 Secretary may withhold any funds due the supervisory ~~district or school~~

1 ~~districts~~ union and its member districts under this title until a service plan is
2 filed and accepted by the Secretary as properly completed.

3 § 2965. WITHHOLDING OF AID

4 If a ~~district~~ supervisory union, school district or agency fails to meet its
5 legally established obligations toward a child with a disability or the child's
6 parent, and as a result the Agency of Education incurs costs to meet these
7 obligations beyond those otherwise incurred under this chapter, the Secretary
8 shall withhold the amount of funds incurred from any grants due the ~~district~~
9 supervisory union, school district or agency under this subchapter.

10 § 2967. AID PROJECTION; STATE SHARE

11 (a) On or before December 15, the Secretary shall publish an estimate, by
12 ~~town school district, city school district, union school district, unified union~~
13 ~~school district, incorporated school district, and the member school districts of~~
14 ~~an interstate school district~~ supervisory union and its member districts to the
15 extent they anticipate reimbursable expenditures under this chapter, of the
16 amount of State assistance necessary to fully fund sections 2961 through 2963
17 of this title in the ensuing school year. The provisions of 2 V.S.A. § 20(d)
18 (expiration of required reports) shall not apply to the report to be made under
19 this subsection.

20 * * *

1 § 2968. REPORTS

2 (a) On or before November 15, March 15, and August 1 of each school
3 year, each supervisory union ~~and school district~~ and its member districts to the
4 extent they incur reimbursable expenditures under this chapter shall file a
5 financial report with the Secretary in a form prescribed by the Secretary. The
6 report shall describe total expenditures for special education actually incurred
7 during the preceding period, and shall describe revenues derived from different
8 funding sources, including federal assistance, State assistance under this
9 ~~section~~ chapter, and local effort.

10 (b) If a supervisory union ~~or school district~~ or its member districts that have
11 incurred reimbursable expenditures under this chapter fails to file a complete
12 report by August 1, until the properly completed August 1 report is filed and
13 accepted by the Secretary, the Secretary may withhold any funds due the
14 supervisory union or school district under this title and shall subtract \$100.00
15 per business day from funds due to the supervisory union or school district
16 under this title for that fiscal year. The Secretary may waive the \$100.00
17 penalty required under this subsection upon appeal by the supervisory union or
18 school district. The Secretary shall establish procedures for administration of
19 this subsection.

20 (c) The Secretary shall review and monitor the reports received pursuant to
21 subsection (a) of this section as well as the service plans received pursuant to

1 section 2964 of this title, and shall assist supervisory unions and school
2 districts to complete and submit these documents in a timely and accurate
3 fashion.

4 (d) Special education receipts and expenditures shall be included within the
5 audits required of supervisory unions ~~and school districts~~ its member districts
6 that have incurred reimbursable expenditures under this chapter pursuant to
7 ~~sections~~ section 323 ~~and 563(17)~~ of this title.

8 § 2969. PAYMENTS

9 (a) On or before August 15, December 15, and April 15 of each school
10 year, the State Treasurer shall withdraw from the Education Fund, based on
11 warrant of the Commissioner of Finance and Management, and shall forward
12 to each ~~school district~~ supervisory union and its member districts to the extent
13 they anticipate reimbursable expenditures under this chapter, the amount of
14 State assistance estimated in accordance with State Board rules to be necessary
15 to fund sections 2961 through 2963a of this title in the current fiscal period.

16 The State Board shall by rule ensure that the amount of such assistance shall be
17 adjusted to compensate for any overpayments or underpayments determined,
18 after review and acceptance of the reports submitted under section 2968 of this
19 title, to have been made in previous periods. Notwithstanding this subsection,
20 failure to submit the reports within the timelines established by subsection

1 2968(a) of this title shall result in the withholding of any payments until the
2 report is filed.

3 (b) ~~[Deleted.]~~ [Repealed.]

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

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

16 (e) **School districts and supervisory unions** that apply for funds under this
17 section must submit a plan for training that will result in lasting changes in
18 their school systems and give assurances that at least 50 percent of the costs of
19 training, including in-kind costs, will be assumed by the applicant. The
20 Secretary shall establish written procedures and criteria for the award of such
21 funds. In addition, the Secretary may identify schools most in need of training

1 assistance and may pay for 100 percent of the assistance ~~provided~~ to the
2 supervisory union ~~or school district~~ for these schools to fund the provision of
3 training assistance for these schools.

4 §§ 2970, 2971. [RESERVED FOR FUTURE USE.].

5 * * *

6 § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

8 (1) special education expenditures by ~~school districts~~ supervisory
9 unions;

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

13 (3) results for special education students;

14 (4) the availability of special education staff;

15 (5) the consistency of special education program implementation
16 statewide;

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

19 (7) a statewide summary of the special education student count,
20 including:

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

4 (B) the percentage of special education students by disability
5 category; and

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

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

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

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

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

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

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

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

6 (7) any other factors affecting its spending.

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

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

19 (e) The Secretary and Agency staff shall assist the ~~high spending districts~~
20 high-spending supervisory unions, that have been identified in subsection (a)
21 of this section and have not presented an explanation for their spending that is

1 satisfactory to the Secretary, to identify reasonable alternatives and to develop
2 a remediation plan. Development of the remediation plan shall include an
3 on-site review. The ~~district~~ supervisory union shall have two years to make
4 progress on the remediation plan. At the conclusion of the two years or earlier,
5 the ~~district~~ supervisory union shall report its progress on the remediation plan.

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

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

14 (2) If the district fails to make satisfactory progress after the first year of
15 withholding, 10 percent shall be withheld in each subsequent year pending
16 satisfactory compliance with the plan; provided, however, before funds are
17 withheld in any year under this subdivision (f)(2), the ~~district~~ supervisory
18 union shall explain to the State Board either the reasons the ~~district~~ supervisory
19 union believes it made satisfactory progress on the remediation plan or the
20 reasons it failed to do so. The State Board's decision whether to withhold
21 funds under this subdivision shall be final.

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

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

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

18 § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL
19 ASSISTANCE

20 The Secretary may use up to two percent of the funds appropriated for
21 special education expenditures, as that term is defined in subsection 2967(b) of

1 this title, to directly assist ~~school districts~~ supervisory unions with special
2 education expenditures of an unusual or unexpected nature. These funds shall
3 not be used for exceptional circumstances that are funded under section 2963a
4 of this title. The Secretary's decision regarding a ~~district's~~ supervisory union's
5 eligibility for and amount of assistance shall be final.

6 **Sec. 2. 16 V.S.A. § 4002(a) is amended to read:**

7 **§ 4002. PAYMENT; ALLOCATION**

8 (a) State and federal funds appropriated for services delivered by the
9 supervisory union and payable through the Agency shall be paid to the order of
10 the supervisory union and administered in accordance with the plan adopted
11 under subdivision 261a(4) of this title. Funding for special education services
12 under section 2969 of this title shall be paid to the districts and supervisory
13 unions in accordance with that section.

14 * * * Study of Funding for Special Education * * *

15 **Sec. 3. STUDY OF FUNDING FOR SPECIAL EDUCATION**

16 (a) Study. The Agency of Education shall contract for a study of special
17 education funding and practice. The study shall evaluate the feasibility of
18 implementing the census block model of funding, or a variation of this model
19 as the contractor deems appropriate, for special education in Vermont,
20 including the advantages, disadvantages, and policy considerations. The study
21 shall develop a special education funding model recommendation for Vermont.

1 which shall be designed to provide incentives for desirable practices and
2 stimulate innovation in the delivery of services and shall take into account any
3 factors the contractor determines relevant. The contractor shall conduct its
4 evaluation and develop its recommendation in collaboration with the Agency
5 of Education and interested superintendents, **special education administrators,**
6 school business and administrative staff, and special education staff from the
7 Vermont State Colleges and other stakeholders. The contractor shall present
8 its findings and recommendations to the General Assembly and the Agency of
9 Education by December 15, 2017.

10 (b) Funding. The Agency of Education shall allocate out of its fiscal year
11 2017 budget a sum of \$40,000.00 to provide for the purposes set forth in this
12 section. Any application of funds for the purpose of administrative overhead
13 shall be capped at five percent of the total sum allocated pursuant to this
14 section.

15 * * * Appropriation for Consulting Services on the Delivery of Special
16 Education Services * * *

17 Sec. 4. APPROPRIATION FOR CONSULTING SERVICES ON THE
18 DELIVERY OF SPECIAL EDUCATION SERVICES

19 (a) Consulting services. The Agency of Education shall contract with a
20 consulting firm meeting the criteria set forth in subsection (b) of this section
21 for the provision of special education consulting services to up to

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

20 (b) Selection of consulting firm. The Agency of Education shall contract
21 with a consulting firm which:

1 (1) has experience working directly with Vermont school districts and
2 with school districts across the country to raise achievement and manage cost
3 in special education;

4 (2) uses national special education staffing benchmarking from at least
5 1,000 school districts covering at least 10 million students, and web-based
6 schedule sharing technology that captures how individual staff members use
7 their time, including duration, location, and group size;

8 (3) has conducted and published primary research on cost-effective
9 strategies for raising achievement of struggling students, both with and without
10 special needs; and

11 (4) is recognized as a national expert and published author on raising
12 special education achievement in a cost-effective manner.

13 (c) Appropriation. Notwithstanding any provision to the contrary in
14 16 V.S.A. § 4025, the sum of \$200,000.00 is appropriated from the Education
15 Fund for fiscal year 2017 to the Agency of Education. The Agency shall
16 administer the funds in accordance with this section and any unused funds
17 shall revert to the Education Fund.

18 * * * Effective Dates * * *

19 Sec. 5. EFFECTIVE DATES

20 Secs. 3, 4, and this section shall take effect on July 1, 2016. Secs. 1 and 2
21 shall take effect on July 1, 2017.

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE