

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; public schools; comprehensive system of educational

4 services; delivery and funding of services for students who struggle

5 Statement of purpose of bill as introduced: This bill proposes to enhance the

6 effectiveness, availability, and equity of services provided to all students who

7 struggle in Vermont’s public schools, including students receiving special

8 education services and students who need additional support but do not receive

9 special education services. To support the delivery of these services, this bill

10 also changes the funding model for special education from a reimbursement

11 model to a census-based model, which provides more flexibility in how

12 funding can be used, is aligned with the State’s policy priorities of serving

13 struggling students across the general and special education service delivery

14 systems, and simplifies administration.

15 An act relating to enhancing the effectiveness, availability, and equity of
16 services provided to students who struggle

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

2 * * * Findings * * *

3 Sec. 1. FINDINGS

4 (a) In 2016 Acts and Resolves No. 148, the General Assembly directed the
5 Agency of Education to contract with a consulting firm to review current
6 practices and recommend best practices for the delivery of special education
7 services in public schools. The Agency of Education contracted with the
8 District Management Group, which issued in November 2017 its report entitled
9 “Expanding and Strengthening Best-Practice Supports for Students who
10 Struggle” (Delivery of Services Report).

11 (b) In Act 148, the General Assembly also directed the Agency of
12 Education to contract for a study of special education funding and practice and
13 to recommend a funding model for Vermont designed to provide incentives for
14 desirable practices and stimulate innovation in the delivery of services. The
15 General Assembly required that the study consider a census-based model of
16 funding. The Agency of Education contracted with Tammy Kolbe and Kieran
17 Killeen of the University of Vermont, and their report entitled “Study of
18 Vermont State Funding for Special Education” was issued in December 2017
19 (Funding Report).

1 (c) The Delivery of Services Report made the following five
2 recommendations on best practices for the delivery of special education
3 services:

4 (1) ensure core instruction meets most needs of most students;

5 (2) provide additional instructional time outside core subjects to students
6 who struggle, rather than providing interventions instead of core instruction;

7 (3) ensure students who struggle receive all instruction from highly
8 skilled teachers;

9 (4) create or strengthen a systems-wide approach to supporting positive
10 student behaviors based on expert support; and

11 (5) provide specialized instruction from skilled and trained experts to
12 students with more intensive needs.

13 (d) The Funding Report noted, based on feedback from various
14 stakeholders, including educators, school leaders, State officials, parents, and
15 others, that Vermont’s existing reimbursement model of funding special
16 education has a number of limitations in that it:

17 (1) is administratively costly for the State and localities;

18 (2) is misaligned with policy priorities, particularly with the delivery of
19 a multitiered system of supports and positive behavioral interventions and
20 supports;

1 (3) creates misplaced incentives for student identification,

2 categorization, and placement;

3 (4) discourages cost containment; and

4 (5) is unpredictable and lacks transparency.

5 (e) The Funding Report assessed various funding models that support
6 students who struggle, including a census-based funding model. A census-
7 based model would award funding to supervisory unions based on the number
8 of students within the supervisory union and could be used by the supervisory
9 union to support the delivery of services to all students. The Funding Report
10 noted that the advantages of a census-based model are that it is simple and
11 transparent, allows flexibility in how the funding is used by supervisory
12 unions, is aligned with the policy priorities of serving struggling students
13 across the general and special education service delivery systems, and is
14 predictable. The Funding Report noted that the disadvantages of a census-
15 based model are that it may create incentives for supervisory unions to limit
16 services to special education students and that there is potential cost liability
17 for supervisory unions if the census grant amount is too low.

18 (f) The General Assembly finds that:

19 (1) students who struggle would be better served if supervisory unions
20 adopted the best practices recommended in the Delivery of Services Report;

1 (2) the State’s current reimbursement model of funding special
2 education serves as an impediment to adopting these best practices, largely due
3 to the constraint on the use of funds and the misalignment with the policy
4 priorities of serving struggling students across the general and special
5 education service delivery systems; and

6 (3) the census-based model of funding for students who struggle would
7 support the adoption by supervisory unions of the best practices recommended
8 in the Delivery of Services Report, largely due to the flexibility in how the
9 funds could be used by supervisory unions and the alignment with the policy
10 priorities.

11 (g) The General Assembly recognizes that changing the models for
12 delivery of services and funding for students who struggle is a significant
13 change for school systems and their constituencies, and that they will require
14 time and assistance in making necessary adjustments.

15 * * * Goals * * *

16 Sec. 2. GOALS

17 (a) By enacting this legislation, the General Assembly intends to enhance
18 the effectiveness, availability, and equity of services provided to all students
19 who struggle in Vermont’s public schools, including students receiving special
20 education services and students who need additional support but do not receive
21 special education services.

1 (b) To support the enhanced delivery of these services, the State funding
2 model for special education will change in fiscal year 2021 from a
3 reimbursement model to a census-based model, which will provide more
4 flexibility in how the funding can be used, is aligned with the State’s policy
5 priorities of serving struggling students across the general and special
6 education service delivery systems, and will simplify administration.

7 (c) In adopting the census-based funding model, the General Assembly will
8 consider the recommendations of an implementation working group composed
9 of key stakeholders and of the Agency of Education.

10 (d) The General Assembly intends to provide funding to the Agency of
11 Education to support its work with supervisory unions and schools that are
12 transitioning to the best practices recommended in the report entitled
13 “Expanding and Strengthening Best-Practice Supports for Students who
14 Struggle” issued by the District Management Group in November 2017.

15 * * * Census-based Funding Implementation Working Group * * *

16 Sec. 3. CENSUS-BASED FUNDING IMPLEMENTATION WORKING
17 GROUP

18 (a) Creation. There is created the Census-based Funding Implementation
19 Working Group to consider and make recommendations on the implementation
20 of a census-based model of funding for students who struggle.

1 (b) Membership. The Working Group shall be composed of the following

2 16 members:

3 (1) the Executive Director of the Vermont Superintendents Association
4 or designee;

5 (2) the Executive Director of the Vermont School Boards Association or
6 designee;

7 (3) the Executive Director of the Vermont Council of Special Education
8 Administrators or designee;

9 (4) the Executive Director of the Vermont Principals Association or
10 designee;

11 (5) the Executive Director of the Vermont-National Education
12 Association or designee;

13 (6) three representatives of the Agency of Education selected by the
14 Secretary, one with management responsibility for special education practices,
15 one with financial responsibility, and one with special education program
16 responsibility;

17 (7) one member selected by the Vermont Superintendents Association;

18 (8) one member selected by the Vermont Principals Association;

19 (9) two members selected by the Vermont Council of Special Education
20 Administrators;

1 (10) one member selected by the Vermont-National Education

2 Association;

3 (11) two members selected by the Vermont Association of School

4 Business Officials; and

5 (12) one member selected by the Vermont Legal Aid Disability Law

6 Project.

7 (c) Powers and duties. The Working Group shall consider and make
8 recommendations on the implementation of a census-based model of funding
9 for students who struggle, and shall:

10 (1) evaluate different census-based funding models and assumptions
11 used in the report entitled “Study of Vermont State Funding for Special
12 Education” issued in December 2017 by Tammy Kolbe and Kieran Killeen of
13 the University of Vermont (Funding Report), and make a recommendation
14 regarding which funding model and assumptions to use;

15 (2) develop a plan to step down the amount of the census-based State
16 funding contribution, informed by the impact of the report entitled “Expanding
17 and Strengthening Best-Practice Supports for Students who Struggle” issued in
18 November 2017 by the District Management Group (Delivery of Services
19 Report) and the Funding Report;

20 (3) conduct an analysis of, and make a recommendation for, an
21 extraordinary services reimbursement model, including consideration of the

1 options for extraordinary services reimbursement discussed in the Funding

2 Report:

3 (4) conduct an analysis of, and make a recommendation for, an
4 exceptional circumstances reimbursement model, including consideration of
5 how that model currently works and how often it is used, and whether it is
6 necessary under the new census-based funding model recommended by the

7 Working Group:

8 (5) develop a staffing plan for the Agency of Education to support the
9 implementation of funding and instructional practice changes;

10 (6) develop a detailed plan to implement the funding and instructional
11 practice changes, and identify key transitional tasks for the Agency of
12 Education, supervisory unions, and schools; and

13 (7) recommend changes to legislation or regulation needed to
14 accomplish the transition.

15 (d) Assistance. The Working Group shall have the administrative,
16 technical, and legal assistance of the Agency of Education. The Working
17 Group may request information and technical assistance from the University of
18 Vermont and the District Management Group, and shall be supported by a
19 facilitator provided by the Agency of Education with expertise on special
20 education funding and systems. The Working Group shall have access to a
21 special education attorney provided by the Agency of Education.

1 (e) Reports. On or before November 1, 2018, the Working Group shall
2 submit a written report to the House and Senate Committees on Education and
3 the State Board of Education with its findings and recommendations, including
4 recommendations for any amendments to legislation or regulation. On or
5 before September 15, 2019, the Working Group shall submit a supplemental
6 written report to the House and Senate Committees on Education and the State
7 Board of Education with any additional findings and recommendations,
8 including recommendations for any amendments to legislation or regulation.

9 (f) Meetings.

10 (1) The Secretary of Education shall call the first meeting of the
11 Working Group to occur on or before May 30, 2018.

12 (2) The Working Group shall select a chair from among its members at
13 the first meeting.

14 (3) A majority of the membership shall constitute a quorum.

15 (4) The Working Group shall cease to exist on September 16, 2019.

16 (g) Reimbursement. Members of the Working Group who are not
17 employees of the State of Vermont and who are not otherwise compensated or
18 reimbursed for their attendance shall be entitled to per diem compensation and
19 reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than
20 16 meetings.

1 * * * Education Weighting Report * * *

2 Sec. 4. REPEAL

3 Sec. 35 of 2017 Acts and Resolves No. 49 is repealed.

4 Sec. 5. EDUCATION WEIGHTING REPORT

5 (a) The Agency of Education, in consultation with the Secretary of Human
6 Services, the Vermont Superintendents Association, the Vermont School
7 Boards Association, and the Vermont-National Education Association, shall
8 consider and make recommendations on the following.

9 (1) The criteria used for determining weighted long-term membership of
10 a school district under 16 V.S.A. § 4010, including each of the following.

11 (A) The current weighting factors and any supporting evidence or
12 basis in the historical record for these factors.

13 (B) The relationship between each of the current weighting factors
14 and the quality and equity of educational outcomes for students.

15 (C) Whether any of the weighting factors, including the weighting
16 factors for students from economically deprived backgrounds and for students
17 for whom English is not the primary language, should be modified, and if so,
18 how the weighting factors should be modified and if the modification would
19 further the quality and equity of educational outcomes for students.

20 (D) Whether to add any weighting factors, including a school district
21 population density factor, and if so, why the weighting factor should be added

1 and if the weighting factor would further the quality and equity of educational
2 outcomes for students. In considering whether to recommend the addition of a
3 school district population density factor, the Agency of Education shall
4 consider the practices of other states, information from the National Council
5 for State Legislatures, and research conducted by higher education institutions
6 working on identifying rural or urban education financing factors.

7 (2) Whether the amount of a census-based funding grant paid by the
8 State to supervisory unions to support students who struggle should be
9 increased for factors such as the number or percentage of students in the
10 supervisory union requiring special education services, who are from families
11 with low income, for whom English is not their native language, or based on
12 other factors, such as the school's population density, and if so, the amount or
13 method of making the adjustment. In making this recommendation, the
14 Agency of Education shall consider the report entitled "Study of Vermont State
15 Funding for Special Education" issued in December 2017 by Tammy Kolbe
16 and Kieran Killeen of the University of Vermont.

17 (b) In addition to considering and making recommendations on the criteria
18 used for determining weighted long-term membership of a school district under
19 subdivision (a)(1) of this section, the Agency of Education shall consider and
20 make recommendations on other methods that would further the quality and
21 equity of educational outcomes for students.

1 (c) On or before December 15, 2018, the Agency of Education shall submit
2 a written report to the House and Senate Committees on Education, the House
3 Committee on Ways and Means, and the Senate Committee on Finance with its
4 findings and any recommendations.

5 (d) Assistance. The Agency of Education shall have the technical
6 assistance of the Joint Fiscal Office and the Office of Legislative Council.

7 * * * Funding * * *

8 Sec. 6. FUNDING

9 (a) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the
10 sum of \$200,000.00 is appropriated from the Education Fund for each of fiscal
11 years 2019, 2020, and 2021 to the Agency of Education, which the Agency
12 shall use to assist supervisory unions and schools in transitioning to the best
13 practices recommended in the report entitled “Expanding and Strengthening
14 Best-Practice Supports for Students who Struggle” issued by the District
15 Management Group in November 2017, and any unused funds shall revert to
16 the Education Fund. The Agency of Education may contract with a contractor
17 with expertise in Vermont’s education funding system to assist the Agency in
18 conducting this work. Any application of funds for the purpose of
19 administrative overhead shall be capped at ten percent of the total sum
20 allocated for each fiscal year pursuant to this subsection.

1 (b) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the
2 sum of \$300,000.00 is appropriated from the Education Fund to the Agency of
3 Education to provide funding for the purposes set forth in Sec. 5 of this act,
4 education weighting report. The Agency of Education may contract with a
5 contractor with expertise in Vermont’s education funding system for the study
6 required by Sec. 5 of this act. Any application of funds for the purpose of
7 administrative overhead shall be capped at ten percent of the total sum
8 allocated pursuant to this subsection.

9 * * * Effective Date * * *

10 Sec. 7. EFFECTIVE DATE

11 This act shall take effect on passage.