

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 change the
5 manner in which the State funds special education services from a
6 reimbursement model to a census grant model with reimbursement for
7 extraordinary special education expenses.

8 An act relating to special education funding

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

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

11 CHAPTER 101. SPECIAL EDUCATION

12 Subchapter 1. General Provisions

13 § 2941. POLICY AND PURPOSE

14 It is the policy of the State to ensure equal educational opportunities for all
15 children in Vermont. This means that children with disabilities are entitled to
16 receive a free appropriate public education. ~~It is further the policy of the State~~
17 ~~to pay 60 percent of the statewide costs expended by public education for~~
18 ~~children with disabilities.~~ The purpose of this chapter is to enable the Agency
19 to ensure the provision of the special educational facilities and instruction
20 necessary to meet the needs of children with disabilities.

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§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL
PLACEMENTS

(a) A ~~school district~~ supervisory union shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child’s individualized education program.

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Subchapter 2. Aid for Special Education and Support Services

§ 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ EDUCATIONAL SUPPORT GRANT

~~(a) Each supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union’s mainstream salary standard multiplied by 60 percent.~~

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

~~(c) As used in this section:~~

~~(1) “Mainstream salary standard” means:~~

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

4 ~~(B) an amount equal to the average special education administrator~~
5 ~~salary in the State for the preceding year, plus, for any supervisory union with~~
6 ~~member districts which have in the aggregate more than 1,500 average daily~~
7 ~~membership, a fraction of an additional full-time equivalent salary for a special~~
8 ~~education administrator, the numerator of which is the aggregate average daily~~
9 ~~membership of the supervisory union’s member districts minus 1,500, and the~~
10 ~~denominator of which is the aggregate average daily membership of member~~
11 ~~districts in the largest supervisory union in the State minus 1,500.~~

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

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

1 (a) As used in this section:

2 (1) “Average daily membership” of a school district, or if needed in
3 order to calculate the appropriate homestead tax rate, of the municipality as
4 defined in 32 V.S.A. § 5401(9), in any year means the full-time equivalent
5 enrollment of students, as defined by the State Board by rule, who are legal
6 residents of the district or municipality attending a school owned and operated
7 by the district, or attending a public school outside the district under section
8 822a of this title, or for whom the district pays tuition to one or more approved
9 independent schools or public schools outside the district during the annual
10 census period. The census period consists of the 11th day through the 30th day
11 of the school year in which school is actually in session.

12 (2) “Average daily membership of a supervisory union” means the
13 aggregate average daily membership of the school districts that are members of
14 the supervisory union or, for a supervisory district, the average daily
15 membership of the supervisory district.

16 (3) “Long-term membership” of a supervisory union in any school year
17 is the average of the supervisory union’s average daily membership over three
18 school years.

19 (4)(A) “Poverty-based adjustment” means an increase to the amount of
20 the educational support grant, as calculated under subsection (d) of this section,
21 for a supervisory union that, for the fiscal year in which the educational

1 support grant is awarded and as compared with all supervisory unions in the
2 State, either:

3 (i) falls at or above the 75th percentile for the percentage of the
4 supervisory union's long-term membership who are six through 17 years of
5 age and who are from economically deprived backgrounds; or

6 (ii) falls between the 50th and the 75th percentiles for the
7 percentage of the supervisory union's long-term membership who are six
8 through 17 years of age and who are from economically deprived backgrounds.

9 (B) A person from an economically deprived background means a
10 person who resides with a family unit receiving nutrition benefits. The
11 Secretary shall use a method of measuring the nutrition benefits population that
12 produces data reasonably representative of long-term trends.

13 (b) Each supervisory union shall be eligible to receive an educational
14 support grant each fiscal year to support the provision of the supervisory
15 union's comprehensive system of educational services, as required under
16 sections 2901 and 2902 of this title. The educational support grant shall be
17 calculated in accordance with subsection (d) of this section.

18 (c) Each supervisory union shall expend, during the fiscal year for which
19 the award was granted, not less than 30 percent of its educational support grant
20 to implement individualized education programs for students with disabilities.

1 The State Board of Education shall adopt rules that require supervisory unions
2 to demonstrate compliance with this requirement.

3 (d)(1) The amount of the educational support grant for a supervisory union
4 that does not qualify for a poverty-based adjustment shall be calculated as
5 follows:

6 (A) for the 2020 fiscal year, a base amount of \$1,837.00 multiplied
7 by the supervisory union’s long-term membership;

8 (B) for the 2021 fiscal year, a base amount of \$1,731.00 multiplied
9 by the supervisory union’s long-term membership;

10 (C) for the 2022 fiscal year, a base amount of \$1,625.00 multiplied
11 by the supervisory union’s long-term membership;

12 (D) for the 2023 fiscal year, a base amount of \$1,519.00 multiplied
13 by the supervisory union’s long-term membership;

14 (E) for the 2024 fiscal year, a base amount of \$1,413.00 multiplied
15 by the supervisory union’s long-term membership;

16 (F) for the 2025 fiscal year, a base amount of \$1,307.00 multiplied by
17 the supervisory union’s long-term membership;

18 (G) for the 2026 fiscal year, a base amount of \$1,201.00 multiplied
19 by the supervisory union’s long-term membership;

20 (H) for the 2027 fiscal year, a base amount of \$1,095.00 multiplied
21 by the supervisory union’s long-term membership;

1 (I) for the 2028 fiscal year and subsequent fiscal years, a base amount
2 of \$989.00, increased annually by the annual change in the National Income
3 and Product Accounts (NIPA) Implicit Price Deflator for State and Local
4 Government Consumption Expenditures and Gross Investment as reported by
5 the U.S. Department of Commerce, Bureau of Economic Analysis, multiplied
6 by the supervisory union’s long-term membership.

7 (2) The amount of the educational support grant for a supervisory union
8 that qualifies for a poverty-based adjustment shall be increased:

9 (A) by 5.0 percent for the fiscal year in which the supervisory union
10 falls at or above the 75th percentile as determined under subdivision (a)(4) of
11 this section; or

12 (B) by 2.5 percent for the fiscal year in which the supervisory union
13 falls between the 50th and the 75th percentiles as determined under subdivision
14 (a)(4) of this section.

15 § 2962. EXTRAORDINARY SERVICES SPECIAL EDUCATION

16 REIMBURSEMENT

17 ~~(a) Except as otherwise provided in this subchapter, extraordinary services~~
18 ~~reimbursement shall be payable, based on where the related cost is incurred, to~~
19 ~~a town school district, city school district, union school district, unified union~~
20 ~~school district, incorporated school district, the member school districts of an~~

1 ~~interstate school district, and unorganized town or gore or to a supervisory~~
2 ~~union.~~

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

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

14 (a)(1) As used in this subchapter, “extraordinary special education
15 expenditures” means a supervisory union’s allowable special education
16 expenditures that for any one child in a fiscal year exceed the following
17 threshold amount:

18 (A) for a child placed in a public or private residential school
19 approved by the State to provide special education for students with disabilities
20 that is operated by a student’s supervisory union or by a member of a regional

1 collaborative of which the supervisory union is a member, 4.62 multiplied by
2 the statewide average district education spending per equalized pupil; or
3 (B) for a child placed in a public or private residential school
4 approved by the State to provide special education for students with disabilities
5 that is not operated by a student's supervisory union or by a member of a
6 regional collaborative of which the supervisory union is a member, 5.9
7 multiplied by the statewide average district education spending per equalized
8 pupil.

9 (2) In this subsection, child means a student with disabilities who is
10 three years of age or older in the current school year. The State Board shall
11 define allowable special education expenditures that shall include any
12 expenditures required under federal law, and any costs of mediation conducted
13 by a mediator who is approved by the Secretary.

14 (b) If a supervisory union has extraordinary special education expenditures,
15 it shall be eligible for extraordinary special education reimbursement as
16 provided in this section. The extraordinary special education reimbursement
17 paid under this section shall apply only after the supervisory union has
18 obtained reimbursement from all other available sources, including Medicaid,
19 other federal and State programs, and private insurance.

1 (c) A supervisory union that has extraordinary special education
2 expenditures in a fiscal year for any one child shall be eligible for
3 extraordinary special education reimbursement equal to:

4 (1) 90 percent of its special education expenditures in that fiscal year for
5 that child that exceed the extraordinary special education expenditures
6 threshold amount under subdivision (a)(1) of this section; and

7 (2) 60 percent of its special education expenditures in that fiscal year
8 for that child that are at or below the extraordinary special education
9 expenditures threshold amount under subdivision (a)(1) of this section, minus
10 the base amount of the educational support grant received by the supervisory
11 union under section 2961(d)(1) for that fiscal year.

12 (d) The State Board shall establish by rule the administrative process for
13 supervisory unions to submit claims for extraordinary special education
14 reimbursement under this section and for the payment of those claims. The
15 State Board shall designate an extraordinary special education reimbursement
16 review team to review claims for extraordinary special education
17 reimbursement submitted by supervisory unions under this section to ensure
18 that those claims are made only after the supervisory union has obtained
19 reimbursement from all other available sources, are eligible for reimbursement,
20 and are reasonable in relation to the special education services provided by or
21 on behalf of the supervisory union. In the event that this team determines,

1 after consultation with the supervisory union, that a claim is not properly
2 claimed or reasonable, it shall withhold reimbursement of the disputed amount,
3 and its decision shall be final.

4 § 2963. ~~SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT~~

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

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

13 ~~(c) As used in this subchapter:~~

14 ~~(1) Special education expenditures are allowable expenditures for~~
15 ~~special education, as defined by rule of the State Board, less the following:~~

16 ~~(A) revenue from federal aid for special education;~~

17 ~~(B) mainstream service costs, as defined in subdivision 2961(c)(1) of~~
18 ~~this title;~~

19 ~~(C) extraordinary special education expenditures, as defined in~~
20 ~~section 2962 of this title;~~

21 ~~(D) any transportation expenses already reimbursed;~~

1 ~~(E) special education costs for a student eligible for aid under section~~
2 ~~2963a of this title; and~~

3 ~~(F) other State funds used for special education costs as defined by~~
4 ~~the State Board by rule.~~

5 ~~(2) The State Board shall define allowable expenditures under this~~
6 ~~subsection. Allowable expenditures shall include any expenditures required~~
7 ~~under federal law.~~

8 ~~(3) “Special education expenditures reimbursement rate” means a~~
9 ~~percentage of special education expenditures that is calculated to achieve the~~
10 ~~60 percent share required by subsection 2967(b) of this title.~~

11 ~~(d) [Repealed.]~~

12 § 2963a. ~~EXCEPTIONAL CIRCUMSTANCES~~

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

1 ~~percent of the total costs eligible for State assistance under sections 2961,~~
2 ~~2962, and 2963 of this title.~~

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

10 § 2964. SERVICE PLAN

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

18 ~~(b) If a supervisory union fails to file a service plan by October 15, the~~
19 ~~Secretary may withhold any funds due the supervisory union and its member~~
20 ~~districts under this title until a service plan is filed and accepted by the~~
21 ~~Secretary as properly completed. [Repealed.]~~

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~~§ 2967. AID PROJECTION; STATE SHARE~~

~~(a) On or before December 15, the Secretary shall publish an estimate, by supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in the ensuing school year.~~

~~(b) The total expenditures made by the State in any fiscal year pursuant to this chapter shall be 60 percent of the statewide total special education expenditures of funds that are not derived from federal sources. Special education expenditures shall include:~~

~~(1) costs eligible for grants and reimbursements under sections 2961 through 2963a of this title;~~

~~(2) costs for services for persons who are visually impaired and persons who are deaf and hard of hearing;~~

~~(3) costs for the interdisciplinary team program;~~

~~(4) costs for regional specialists in multiple disabilities;~~

~~(5) funds expended for training and programs to meet the needs of students with emotional behavioral problems under subsection 2969(e) of this title; and~~

1 ~~(6) funds expended for training under subsection 2969(d) of this title.~~

2 ~~[Repealed.]~~

3 § 2968. **REPORTS**

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

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

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

6 ~~(d) Special education receipts and expenditures shall be included within the~~
7 ~~audits required of a supervisory union and its member districts that have~~
8 ~~incurred reimbursable expenditures under this chapter pursuant to section 323~~
9 ~~of this title. [Repealed.]~~

10 § 2969. PAYMENTS

11 ~~(a)(1) On or before August 15, and December 15, and April 15 of each~~
12 ~~fiscal year, the State Treasurer shall withdraw from the Education Fund, based~~
13 ~~on warrant of the Commissioner of Finance and Management, and shall~~
14 ~~forward to each supervisory union and its member districts to the extent they~~
15 ~~anticipate reimbursable expenditures under this chapter, the amount of State~~
16 ~~assistance estimated in accordance with State Board rules to be necessary to~~
17 ~~fund sections 2961 through 2963a of this title in the current fiscal period one-~~
18 ~~half of the educational support grant due to the supervisory union under section~~
19 ~~2961 of this title for that fiscal year. The State Board shall by rule ensure that~~
20 ~~the amount of such assistance shall be adjusted to compensate for any~~
21 ~~overpayments or underpayments determined, after review and acceptance of~~

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

5 (2) On or before November 15, January 15, April 15, and August 1 of
6 each school year, each supervisory union, to the extent it incurs extraordinary
7 special education expenditures under section 2962 of this title, shall file a
8 financial report with the Secretary in a form prescribed by the Secretary. The
9 report shall describe total extraordinary special education expenditures actually
10 incurred during the reporting period.

11 (3) On or before December 15, February 15, May 15, and September 15
12 of each school year, the State Treasurer shall withdraw from the Education
13 Fund, based on warrant of the Commissioner of Finance and Management, and
14 shall forward to each supervisory union the amount of extraordinary special
15 education reimbursement incurred by the supervisory union under section
16 2962 of this title that is unreimbursed and determined by the extraordinary
17 special education reimbursement review team established under subsection
18 2962(d) of this title to be payable to the supervisory union.

19 (b) [Repealed.]

20 (c) For the purpose of meeting the needs of students with emotional or
21 behavioral problems, each fiscal year the Secretary shall use for training,

1 program development, and building school and regional capacity, up to one
2 percent of the State funds appropriated under this subchapter.

3 (d) For the training of teachers, administrators, and other personnel in the
4 identification and evaluation of, and provision of education services to children
5 who require educational supports, each fiscal year the Secretary shall use up to
6 0.75 percent of the State funds appropriated under this subchapter. In order to
7 set priorities for the use of these funds, the Secretary shall identify effective
8 practices and areas of critical need. The Secretary may expend up to five
9 percent of these funds for statewide training and shall distribute the remaining
10 funds to school districts or supervisory unions.

11 (e) School districts and supervisory unions that apply for funds under this
12 section must submit a plan for training that will result in lasting changes in
13 their school systems and give assurances that at least 50 percent of the costs of
14 training, including in-kind costs, will be assumed by the applicant. The
15 Secretary shall establish written procedures and criteria for the award of such
16 funds. In addition, the Secretary may identify schools most in need of training
17 assistance and may pay for 100 percent of the assistance to the supervisory
18 union or school district for these schools to fund the provision of training
19 assistance for these schools.

1 § 2973. INDEPENDENT SCHOOL TUITION RATES

2 (a) The Secretary shall establish minimum standards of services for
3 students receiving special education in independent schools in Vermont; shall
4 set, after consultation with independent schools in Vermont, the maximum
5 rates to be paid by the Agency and ~~school districts~~ supervisory unions for
6 tuition, room, and board based on the level of services; and may advise
7 independent schools as to the need for certain special education services in
8 Vermont.

9 (b) Neither ~~school districts~~ a supervisory union nor any State agency shall
10 pay rates for tuition, room, and board; for students receiving special education
11 in independent schools outside Vermont that are in excess of allowable costs
12 approved by the authorized body in the state in which the independent school
13 is located, except in exceptional circumstances or for a child who needs
14 exceptional services, as approved by the Secretary.

15 (c) The State Board is authorized to enter into interstate compacts with
16 other states to regulate rates for tuition, room, and board for students receiving
17 special education in independent schools.

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19 § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

1 (1) ~~special education expenditures by supervisory unions~~ the total
2 amount of educational support grants made to supervisory unions under section
3 2961 of this title;

4 (2) ~~the rate of growth or decrease in special education costs, including~~
5 ~~the identity of high and low spending supervisory unions~~ the total amount of
6 extraordinary special education reimbursement made to supervisory unions
7 under section 2962 of this title;

8 (3) results for special education students;

9 (4) the availability of special education staff;

10 (5) the consistency of special education program implementation
11 statewide;

12 (6) the status of the education support systems in supervisory
13 unions; and

14 (7) a statewide summary of the special education student count,
15 including:

16 (A) the percentage of the total average daily membership represented
17 by special education students statewide and by supervisory union;

18 (B) the percentage of special education students by disability
19 category; and

1 (C) the percentage of special education students served by public
2 schools within the supervisory union, by day placement, and by residential
3 placement.

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

6 ~~(1) each supervisory union's special education staff to child count ratios~~
7 ~~as compared to the State average, including a breakdown of ratios by staffing~~
8 ~~categories;~~

9 ~~(2) each supervisory union's percentage of students in day programs and~~
10 ~~residential placements as compared to the State average of students in those~~
11 ~~placements and information about the categories of disabilities for the students~~
12 ~~in such placements;~~

13 ~~(3) whether the supervisory union was in compliance with section 2901~~
14 ~~of this title;~~

15 ~~(4) any unusual community characteristics in each supervisory union~~
16 ~~relevant to special education placements;~~

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

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

1 ~~(7) any other factors affecting its spending.~~

2 ~~(e) The Secretary shall review low spending supervisory unions to~~
3 ~~determine the reasons for their spending patterns and whether those~~
4 ~~supervisory unions used cost effective strategies appropriate to replicate in~~
5 ~~other supervisory unions.~~

6 ~~(d) For the purposes of this section, a “high spending supervisory union” is~~
7 ~~a supervisory union that, in the previous school year, spent at least 20 percent~~
8 ~~more than the statewide average of special education eligible costs per average~~
9 ~~daily membership. Also for the purposes of this section, a “low spending~~
10 ~~supervisory union” is a supervisory union that, in the previous school year,~~
11 ~~spent no more than 80 percent of the statewide average of special education~~
12 ~~eligible costs per average daily membership.~~

13 ~~(e) The Secretary and Agency staff shall assist the high spending~~
14 ~~supervisory unions, that have been identified in subsection (a) of this section~~
15 ~~and have not presented an explanation for their spending that is satisfactory to~~
16 ~~the Secretary, to identify reasonable alternatives and to develop a remediation~~
17 ~~plan. Development of the remediation plan shall include an on-site review.~~
18 ~~The supervisory union shall have two years to make progress on the~~
19 ~~remediation plan. At the conclusion of the two years or earlier, the supervisory~~
20 ~~union shall report its progress on the remediation plan.~~

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

4 ~~(1) If the supervisory union fails to make satisfactory progress, the~~
5 ~~Secretary shall notify the supervisory union that, in the ensuing school year,~~
6 ~~the Secretary shall withhold 10 percent of the supervisory union's special~~
7 ~~education expenditures reimbursement pending satisfactory compliance with~~
8 ~~the plan.~~

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

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

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

11 ~~(h) Nothing in this section shall prevent a supervisory union from seeking~~
12 ~~and receiving the technical assistance of Agency staff to reduce its special~~
13 ~~education spending.~~

14 § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL
15 ASSISTANCE

16 The Secretary may use up to two percent of the funds appropriated for
17 allowable special education expenditures, as that term is defined in subdivision
18 2962(a) of this title, to directly assist supervisory unions with special education
19 expenditures of an unusual or unexpected nature. ~~These funds shall not be~~
20 ~~used for exceptional circumstances that are funded under section 2963a of this~~

1 ~~title.~~ The Secretary’s decision regarding a supervisory union’s eligibility for
2 and amount of assistance shall be final.

3 Sec. 2. 16 V.S.A. § 826 is amended to read:

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

5 * * *

6 (c) Excess special education costs incurred by a ~~district~~ supervisory union
7 in providing special education services to a student beyond those covered by
8 tuition may be charged to the student’s supervisory union for the district of
9 residence. However, only actual costs or actual proportionate costs attributable
10 to the student may be charged.

11 * * *

12 Sec. 3. 16 V.S.A. § 4002 is amended to read:

13 § 4002. PAYMENT; ALLOCATION

14 (a) State and federal funds appropriated for services delivered by the
15 supervisory union and payable through the Agency shall be paid to the order of
16 the supervisory union and administered in accordance with the plan adopted
17 under subdivision 261a(4) of this title. Funding for special education services
18 under ~~section 2969~~ chapter 101 of this title shall be paid to the ~~districts and~~
19 supervisory unions in accordance with that ~~section~~ chapter.

1 (b) The Secretary shall notify the superintendent or chief executive officer
2 of each supervisory union in writing of federal or State funds disbursed to
3 member school districts.

4 Sec. 4. 16 V.S.A. § 4001 is amended to read:

5 § 4001. DEFINITIONS

6 As used in this chapter:

7 * * *

8 (6) “Education spending” means the amount of the school district
9 budget, any assessment for a joint contract school, career technical center
10 payments made on behalf of the district under subsection 1561(b) of this title,
11 and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is
12 paid for by the school district, but excluding any portion of the school budget
13 paid for from any other sources such as endowments, parental ~~fund-raising~~
14 fundraising, federal funds, nongovernmental grants, or other State funds such
15 as special education funds paid under chapter 101 of this title.

16 (A) [Repealed.]

17 (B) For purposes of calculating excess spending pursuant to
18 32 V.S.A. § 5401(12), “education spending” shall not include:

19 * * *

20 (v) Spending attributable to the district’s share of special
21 education spending ~~in excess of \$50,000.00~~ that is not reimbursed as an

1 extraordinary special education reimbursement under section 2962 of this title
2 for any one student in the fiscal year occurring two years prior.

3 * * *

4 Sec. 5. TRANSITION

5 (a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a
6 supervisory union to submit a service plan to the Secretary, a supervisory
7 union shall not be required to submit a service plan for fiscal year 2020.

8 (b) On or before December 1, 2018, a supervisory union shall submit to the
9 Secretary such information as required by the Secretary to estimate the
10 supervisory union's projected fiscal year 2020 extraordinary special education
11 reimbursement under Sec. 1 of this act.

12 Sec. 6. EFFECTIVE DATES

13 (a) Sec. 5 and this section of this act shall take effect on July 1, 2018.

14 (b) Secs. 1-4 of this act shall take effect on July 1, 2019.