

1 Introduced by
2 Committee on Education

3 Date:

4 Subject: Education; special education; funding

5 Statement of purpose of bill as introduced: This bill proposes to change the
6 manner in which the State funds special education services from a
7 reimbursement model to a census-grant model with reimbursement for
8 extraordinary special education expenses.

9 An act relating to special education funding

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

11 * * * Special Education Early Implementation Funding Program * * *

12 Sec. 1. SPECIAL EDUCATION EARLY IMPLEMENTATION

13 FUNDING PROGRAM

14 (a) The Special Education Early Implementation Funding Program

15 (Program) is created. Participants in the Program shall be:

16 (1) in the 2019-2020 school year:

17 (A) those supervisory unions that were included in the report

18 delivered to the Agency of Education entitled “Expanding and Strengthening

19 Best-Practice Supports for Students who Struggle” in November 2017 from the

20 District Management Group; and

1 (B) supervisory unions that notify the Agency of Education on or
2 before December 31, 2018 of their election to participate in the Program; and

3 (2) in the 2020-2021 school year:

4 (A) participants in the Program for the 2019-2020 school year;

5 (B) supervisory unions with average daily membership of 1,000 or
6 more; and

7 (C) supervisory unions that notify the Agency of Education on or
8 before December 31, 2019 of their election to participate in the Program.

9 (b) In this section, references to “supervisory unions” or “participating
10 supervisory unions” shall mean participants in the Program. This section shall
11 supersede any provisions of 16 V.S.A. chapter 101 to the contrary.

12 (c) In lieu of payments and reimbursements under 16 V.S.A. chapter 101,
13 each participating supervisory union shall be eligible to receive an educational
14 support grant pursuant to subsection (d) of this section and, if a participating
15 supervisory union has extraordinary special education expenditures, it shall be
16 eligible for extraordinary special education reimbursement pursuant to
17 subsection (e) of this section.

18 (d) [insert educational support language once developed]

19 (e) [insert extraordinary special education reimbursement language once
20 developed]

1 (f) The following sections of Title 16 shall not apply to the participating
2 supervisory unions:

3 (1) § 2961 (standard mainstream block grants);

4 (2) § 2962 (extraordinary services reimbursement);

5 (3) § 2963 (special education expenditures reimbursement);

6 (4) § 2963a (exceptional circumstances);

7 (5) § 2964 (service plan); and

8 (6) § 2968 (reports).

9 (g) The State’s policy, as stated in 16 V.S.A. §§ 2941 (policy and purpose),
10 2963 (special education expenditures reimbursement), and 2967 (aid
11 projection; State share) to pay 60 percent of the statewide costs expended by
12 public education at institutions for children with disabilities shall not apply to
13 expenditures by the participating supervisory unions for children with
14 disabilities.

15 (h) The Secretary shall exclude the participating supervisory unions from
16 the aid projection required by 16 V.S.A. § 2967 (aid projection; State share) of
17 this title. The Secretary shall include in its report under 16 V.S.A. § 2974(a)
18 (special education program; fiscal review):

19 (1) the total amount of educational support grants made to participating
20 supervisory unions under subsection (d) of this section; and

1 (2) the total amount of extraordinary special education reimbursement
2 made to participating supervisory unions under subsection (e) of this section.

3 (i)(1) On or before August 15 and December 15 of each fiscal year, based
4 on a warrant issued by the Commissioner of Finance and Management, the
5 State Treasurer shall withdraw from the Education Fund and shall forward to
6 each participating supervisory union one-half of the educational support grant
7 due to the supervisory union under subsection (d) of this section for that fiscal
8 year.

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

15 (3) On or before December 15, February 15, May 15, and September 15
16 of each school year, based on a warrant issued by the Commissioner of
17 Finance and Management, the State Treasurer shall withdraw from the
18 Education Fund and shall forward to each participating supervisory union the
19 amount of extraordinary special education reimbursement incurred by the
20 supervisory union under subsection (e) of this section that is unreimbursed and
21 determined by the extraordinary special education reimbursement review team

1 established under subsection (e) of this section to be payable to the supervisory
2 union.

3 (j) For purposes of calculating excess spending pursuant to 32 V.S.A.
4 § 5401(12), “education spending” shall not include spending attributable to the
5 share of special education spending for a district that is a member of a
6 participating supervisory union that is not reimbursed as an extraordinary
7 special education reimbursement under subsection (e) of this section for any
8 student in the fiscal year occurring two years prior.

9 (k) On or before December 1, 2018 for a supervisory union participating in
10 the Program for the 2019-2020 school year and on or before December 1, 2019
11 for a supervisory union participating in the Program for the 2020-2021 school
12 year, the participating supervisory union shall submit to the Secretary such
13 information as required by the Secretary to estimate the supervisory union’s
14 projected extraordinary special education reimbursement for its next fiscal year
15 under subsection (e) of this section.

16 * * * Consulting Services on the Delivery of Special Education Services * * *

17 Sec. 2. CONSULTING SERVICES ON THE DELIVERY OF SPECIAL
18 EDUCATION SERVICES

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

1 supervisory unions. The term of the contract shall cover the 2018-2019, 2019-
2 2020, 2020-2021, and 2021-2022 school years and shall begin on July 1, 2018
3 and end on June 30, 2022. The consulting firm shall work with supervisory
4 unions that, during each school year covered by the contract, are or are
5 anticipating adjusting to the changes in special education funding as provided
6 under this act.

7 (b) Nature of consulting services and reporting.

8 (1) The consulting firm shall assist supervisory unions to expand and
9 improve their delivery of services to students who require additional supports
10 in accordance with the report entitled “Expanding and Strengthening Best-
11 Practice Supports for Students who Struggle” delivered to the Agency of
12 Education in November 2017 from the District Management Group.

13 (2) The consulting firm shall present to the General Assembly and the
14 Agency of Education on or before December 15 of each of 2019, 2020, 2021,
15 and 2022 a report describing what changes supervisory unions have made to
16 expand and improve their delivery of services to students who require
17 additional supports and describing the associated delivery challenges. The
18 Agency shall share each report with all supervisory unions. The consulting
19 firm shall provide to the Agency of Education any and all research and data
20 compiled during the course of its work pursuant to this section.

1 (c) Selection of consulting firm. The Agency of Education shall contract
2 with a consulting firm that:

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

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

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

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

15 (d) Appropriation. Notwithstanding any provision to the contrary in
16 16 V.S.A. § 4025, the sum of \$200,000.00 is appropriated from the Education
17 Fund for each of fiscal years 2019, 2020, 2021, and 2022 to the Agency of
18 Education, which the Agency shall administer in accordance with this section,
19 and any unused funds shall revert to the Education Fund.

1 *** Census Funding Model; Amendment of Special Education Laws ***

2 Sec. 3. 16 V.S.A. chapter 101 is amended to read:

3 CHAPTER 101. SPECIAL EDUCATION

4 Subchapter 1. General Provisions

5 § 2941. POLICY AND PURPOSE

6 It is the policy of the State to ensure equal educational opportunities for all
7 children in Vermont. This means that children with disabilities are entitled to
8 receive a free appropriate public education. ~~It is further the policy of the State~~
9 ~~to pay 60 percent of the statewide costs expended by public education for~~
10 ~~children with disabilities.~~ The purpose of this chapter is to enable the Agency
11 to ensure the provision of the special educational facilities and instruction
12 necessary to meet the needs of children with disabilities.

13 * * *

14 Subchapter 2. Aid for Special Education and Support Services

15 § 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ EDUCATIONAL

16 SUPPORT GRANT

17 (a) ~~Each supervisory union shall be eligible to receive a standard~~
18 ~~mainstream block grant each school year. The mainstream block grant shall be~~
19 ~~equal to the supervisory union's mainstream salary standard multiplied by~~
20 ~~60 percent.~~

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

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

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

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

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

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

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

9 As used in this section:

10 (1) “Average daily membership” of a school district, or if needed in
11 order to calculate the appropriate homestead tax rate, of the municipality as
12 defined in 32 V.S.A. § 5401(9), in any year means the full-time equivalent
13 enrollment of students, as defined by the State Board by rule, who are legal
14 residents of the district or municipality attending a school owned and operated
15 by the district, or attending a public school outside the district under section
16 822a of this title, or for whom the district pays tuition to one or more approved
17 independent schools or public schools outside the district during the annual
18 census period. The census period consists of the 11th day through the 30th day
19 of the school year in which school is actually in session.

20 (2) “Average daily membership of a supervisory union” means the
21 aggregate average daily membership of the school districts that are members of

1 the supervisory union or, for a supervisory district, the average daily
2 membership of the supervisory district.

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

6 (4)(A) “Poverty-based adjustment” means an increase to the amount of
7 the educational support grant, as calculated under subsection (d) of this section,
8 for a supervisory union that, for the fiscal year in which the educational
9 support grant is awarded and as compared with all supervisory unions in the
10 State, either:

11 (i) falls at or above the [75th percentile] for the percentage of the
12 supervisory union’s long-term membership who are six through 17 years of
13 age and who are from economically deprived backgrounds; or

14 (ii) falls between the [50th and the 75th percentiles] for the
15 percentage of the supervisory union’s long-term membership who are six
16 through 17 years of age and who are from economically deprived backgrounds.

17 (B) “A person from an economically deprived background” means a
18 person who resides with a family unit receiving nutrition benefits. The
19 Secretary shall use a method of measuring the nutrition benefits population that
20 produces data reasonably representative of long-term trends.

1 (b) Each supervisory union shall be eligible to receive an educational
2 support grant each fiscal year to support the provision of the supervisory
3 union’s comprehensive system of educational services, as required under
4 sections 2901 and 2902 of this title. The educational support grant shall be
5 calculated in accordance with subsection (d) of this section.

6 (c) Each supervisory union shall expend, during the fiscal year for which
7 the award was granted, not less than [30] percent of its educational support
8 grant to implement individualized education programs for students with
9 disabilities. The State Board of Education shall adopt rules that require
10 supervisory unions to demonstrate compliance with this requirement.

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

14 (A) for the 2022 fiscal year, a base amount of \$[1,837.00] multiplied
15 by the supervisory union’s long-term membership;

16 (B) for the 2023 fiscal year, a base amount of \$[1,731.00] multiplied
17 by the supervisory union’s long-term membership;

18 (C) for the 2024 fiscal year, a base amount of \$[1,625.00] multiplied
19 by the supervisory union’s long-term membership;

20 (D) for the 2025 fiscal year, a base amount of \$[1,519.00] multiplied
21 by the supervisory union’s long-term membership;

1 (E) for the 2026 fiscal year, a base amount of \$[1,413.00] multiplied
2 by the supervisory union’s long-term membership;

3 (F) for the 2027 fiscal year, a base amount of \$[1,307.00] multiplied
4 by the supervisory union’s long-term membership;

5 (G) for the 2028 fiscal year, a base amount of \$[1,201.00] multiplied
6 by the supervisory union’s long-term membership;

7 (H) for the 2029 fiscal year, a base amount of \$[1,095.00] multiplied
8 by the supervisory union’s long-term membership;

9 (I) for the 2030 fiscal year and subsequent fiscal years, a base amount
10 of \$[989.00], increased annually by the annual change in the National Income
11 and Product Accounts (NIPA) Implicit Price Deflator for State and Local
12 Government Consumption Expenditures and Gross Investment as reported by
13 the U.S. Department of Commerce, Bureau of Economic Analysis, multiplied
14 by the supervisory union’s long-term membership.

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

17 (A) by [5.0] percent for the fiscal year in which the supervisory union
18 falls at or above the [75th] percentile as determined under subdivision (a)(4) of
19 this section; or

1 (B) by [2.5] percent for the fiscal year in which the supervisory union
2 falls between the [50th and the 75th] percentiles as determined under
3 subdivision (a)(4) of this section.

4 § 2962. EXTRAORDINARY SERVICES SPECIAL EDUCATION

5 REIMBURSEMENT

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

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

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

1 ~~and any costs of mediation conducted by a mediator who is approved by the~~
2 ~~Secretary.~~

3 (1) In this subsection, “child” means a student with disabilities who is
4 three years of age or older in the current school year.

5 (2) As used in this subchapter, “**extraordinary expenditures**” means a
6 supervisory union’s allowable special education expenditures that for any one
7 child in a fiscal year exceed the following threshold amount:

8 (A) for a child placed in a public or private residential school
9 approved by the State to provide special education for students with disabilities
10 that is operated by a student’s supervisory union or by a member of a regional
11 collaborative of which the supervisory union is a member, **[4.62]** multiplied by
12 the **[statewide average district education spending per equalized pupil]**; or

13 (B) for a child placed in a public or private residential school
14 approved by the State to provide special education for students with disabilities
15 that is not operated by a student’s supervisory union or by a member of a
16 regional collaborative of which the supervisory union is a member, **[5.9]**
17 multiplied by the **[statewide average district education spending per equalized**
18 **pupil]**.

19 (3) The State Board shall define allowable special education
20 expenditures that shall include any expenditures required under federal law and

1 any costs of mediation conducted by a mediator who is approved by the
2 Secretary.

3 (b) If a supervisory union has extraordinary expenditures, it shall be
4 eligible for extraordinary special education reimbursement (extraordinary
5 reimbursement) as provided in this section. The extraordinary reimbursement
6 paid under this section shall apply only after the supervisory union has
7 obtained reimbursement from all other available sources, including Medicaid,
8 other federal and State programs, and private insurance.

9 (c) A supervisory union that has extraordinary expenditures in a fiscal year
10 for any one child shall be eligible for extraordinary reimbursement equal to:

11 (1) an amount equal to its special education expenditures in that fiscal
12 year for that child that exceed the extraordinary expenditures threshold amount
13 under subdivision (a)(1) of this section (excess expenditures) multiplied by
14 [90] percent; and

15 (2) an amount equal to the lesser of:

16 (A) the amount of its excess expenditures; or

17 (B)(i) the extraordinary expenditures threshold amount under
18 subdivision (a)(1) of this section, minus

19 (ii) the base amount of the educational support grant received by
20 the supervisory union under section 2961(d)(1) for that fiscal year, multiplied
21 by

1 (iii) [60] percent.

2 (d) The State Board shall establish by rule the administrative process for
3 supervisory unions to submit claims for extraordinary reimbursement under
4 this section and for the payment of those claims. The State Board shall
5 designate an extraordinary special education reimbursement review team to
6 review claims for extraordinary reimbursement submitted by supervisory
7 unions under this section to ensure that those claims are made only after the
8 supervisory union has obtained reimbursement from all other available
9 sources, are eligible for reimbursement, and are reasonable in relation to the
10 special education services provided by or on behalf of the supervisory union.
11 In the event that this team determines, after consultation with the supervisory
12 union, that a claim is not properly claimed or reasonable, it shall withhold
13 reimbursement of the disputed amount, and its decision shall be final.

14 § 2963. ~~SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT~~

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

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

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

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

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

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

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

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

13 ~~(E) special education costs for a student eligible for aid under section~~
14 ~~2963a of this title; and~~

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

17 ~~(2) The State Board shall define allowable expenditures under this~~
18 ~~subsection. Allowable expenditures shall include any expenditures required~~
19 ~~under federal law.~~

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

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

5 § 2963a. ~~EXCEPTIONAL CIRCUMSTANCES~~

6 ~~(a) In lieu of reimbursement under section 2963 of this title, the Secretary~~
7 ~~shall reimburse a school district or supervisory union for 80 percent of the~~
8 ~~costs not eligible for reimbursement under section 2962 of this title for each~~
9 ~~student causing the school district or supervisory union to be eligible for~~
10 ~~extraordinary services reimbursement pursuant to that section. However, in~~
11 ~~order for a school district or supervisory union to be eligible for reimbursement~~
12 ~~under this section, the total costs of the school district or supervisory union~~
13 ~~eligible for extraordinary services reimbursement must equal or exceed 15~~
14 ~~percent of the total costs eligible for State assistance under sections 2961,~~
15 ~~2962, and 2963 of this title.~~

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

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

3 § 2964. SERVICE PLAN

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

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

15 * * *

16 § 2967. AID PROJECTION; STATE SHARE

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

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

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

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

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

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

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

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

15 [Repealed.]

16 § 2968. REPORTS

17 ~~(a) On or before November 15, March 15, and August 1 of each school~~
18 ~~year, each supervisory union and its member districts to the extent they incur~~
19 ~~reimbursable expenditures under this chapter shall file a financial report with~~
20 ~~the Secretary in a form prescribed by the Secretary. The report shall describe~~
21 ~~total expenditures for special education actually incurred during the preceding~~

1 ~~period, and shall describe revenues derived from different funding sources,~~
2 ~~including federal assistance, State assistance under this chapter, and local~~
3 ~~effort.~~

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

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

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

1 § 2969. PAYMENTS

2 (a)(1) On or before August 15, and December 15, and April 15 of each
3 fiscal year, the State Treasurer shall withdraw from the Education Fund, based
4 on a warrant issued by the Commissioner of Finance and Management, and
5 shall forward to each supervisory union ~~and its member districts to the extent~~
6 ~~they anticipate reimbursable expenditures under this chapter, the amount of~~
7 ~~State assistance estimated in accordance with State Board rules to be necessary~~
8 ~~to fund sections 2961 through 2963a of this title in the current fiscal period~~
9 one-half of the educational support grant due to the supervisory union under
10 section 2961 of this title for that fiscal year. ~~The State Board shall by rule~~
11 ~~ensure that the amount of such assistance shall be adjusted to compensate for~~
12 ~~any overpayments or underpayments determined, after review and acceptance~~
13 ~~of the reports submitted under section 2968 of this title, to have been made in~~
14 ~~previous periods. Notwithstanding this subsection, failure to submit the~~
15 ~~reports within the timelines established by subsection 2968(a) of this title shall~~
16 ~~result in the withholding of any payments until the report is filed.~~

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

1 (3) On or before December 15, February 15, May 15, and September
2 15 of each school year, based on a warrant issued by the Commissioner of
3 Finance and Management, the State Treasurer shall withdraw from the
4 Education Fund and shall forward to each supervisory union the amount of
5 extraordinary reimbursement incurred by the supervisory union under section
6 2962 of this title that is unreimbursed and determined by the extraordinary
7 special education reimbursement review team established under subsection
8 2962(d) of this title to be payable to the supervisory union.

9 (b) [Repealed.]

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

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

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

10 * * *

11 § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

13 (1) ~~special education expenditures by supervisory unions~~ the total
14 amount of educational support grants made to supervisory unions under section
15 2961 of this title;

16 (2) ~~the rate of growth or decrease in special education costs, including~~
17 ~~the identity of high- and low-spending supervisory unions~~ the total amount of
18 extraordinary special education reimbursement made to supervisory unions
19 under section 2962 of this title;

20 (3) results for special education students;

21 (4) the availability of special education staff;

1 (5) the consistency of special education program implementation
2 statewide;

3 (6) the status of the ~~education~~ educational support systems in
4 supervisory unions; and

5 (7) a statewide summary of the special education student count,
6 including:

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

9 (B) the percentage of special education students by disability
10 category; and

11 (C) the percentage of special education students served by public
12 schools within the supervisory union, by day placement, and by residential
13 placement.

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

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

19 ~~(2) each supervisory union's percentage of students in day programs and~~
20 ~~residential placements as compared to the State average of students in those~~

1 ~~placements and information about the categories of disabilities for the students~~
2 ~~in such placements;~~

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

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

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

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

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

13 ~~(c) The Secretary shall review low spending supervisory unions to~~
14 ~~determine the reasons for their spending patterns and whether those~~
15 ~~supervisory unions used cost-effective strategies appropriate to replicate in~~
16 ~~other supervisory unions.~~

17 ~~(d) For the purposes of this section, a "high spending supervisory union" is~~
18 ~~a supervisory union that, in the previous school year, spent at least 20 percent~~
19 ~~more than the statewide average of special education eligible costs per average~~
20 ~~daily membership. Also for the purposes of this section, a "low spending~~
21 ~~supervisory union" is a supervisory union that, in the previous school year,~~

1 spent no more than 80 percent of the statewide average of special education
2 eligible costs per average daily membership.

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

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

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

19 ~~(2) If the supervisory union fails to make satisfactory progress after the~~
20 ~~first year of withholding, 10 percent shall be withheld in each subsequent year~~
21 ~~pending satisfactory compliance with the plan; provided, however, before~~

1 funds are withheld in any year under this subdivision (f)(2), the supervisory
2 union shall explain to the State Board either the reasons the supervisory union
3 believes it made satisfactory progress on the remediation plan or the reasons it
4 failed to do so. The State Board's decision whether to withhold funds under
5 this subdivision shall be final.

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

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

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

4 § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL
5 ASSISTANCE

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

13 * * * Technical and Conforming Changes * * *

14 Sec. 4. 16 V.S.A. § 826 is amended to read:

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

16 * * *

17 (c) Excess special education costs incurred by a ~~district~~ supervisory union
18 in providing special education services to a student beyond those covered by
19 tuition may be charged to the student's supervisory union for the district of
20 residence. However, only actual costs or actual proportionate costs attributable
21 to the student may be charged.

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Sec. 5. 16 V.S.A. § 2958 is amended to read:

§ 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.

* * *

Sec. 6. 16 V.S.A. § 2973 is amended to read:

§ 2973. INDEPENDENT SCHOOL TUITION RATES

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

(b) Neither ~~school districts~~ a supervisory union nor any State agency shall pay rates for tuition, room, and board, for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school

1 is located, except in exceptional circumstances or for a child who needs
2 exceptional services, as approved by the Secretary.

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

6 * * *

7 Sec. 7. 16 V.S.A. § 4001 is amended to read:

8 § 4001. DEFINITIONS

9 As used in this chapter:

10 * * *

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

19 (A) [Repealed.]

20 (B) For purposes of calculating excess spending pursuant to
21 32 V.S.A. § 5401(12), “education spending” shall not include:

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(v) Spending attributable to the district’s share of special education spending ~~in excess of \$50,000.00~~ that is not reimbursed as an extraordinary reimbursement under section 2962 of this title for any ~~one~~ student in the fiscal year occurring two years prior.

* * *

Sec. 8. 16 V.S.A. § 4002 is amended to read:

§ 4002. PAYMENT; ALLOCATION

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

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

* * * Transition * * *

Sec. 9. TRANSITION

