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Senate Committee on Education Working Version

H.897

An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support

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

* * * Findings * * *

Sec. 1. FINDINGS

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

(b) In Act 148, the General Assembly also directed the Agency of Education to contract for a study of special education funding and practice and to recommend a funding model for Vermont designed to provide incentives for desirable practices and stimulate innovation in the delivery of services. The General Assembly required that the study consider a census-based model of funding. The Agency of Education contracted with the University of Vermont, and the report of its Department of Education and Social Services entitled

1 “Study of Vermont State Funding for Special Education” was issued in
2 December 2017 (Funding Report).

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

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

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

9 (3) ensure students who struggle receive all instruction from highly
10 skilled teachers;

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

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

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

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

1 (2) is misaligned with policy priorities, particularly with regard to the
2 delivery of a multitiered system of supports and positive behavioral
3 interventions and supports;

4 (3) creates misplaced incentives for student identification,
5 categorization, and placement;

6 (4) discourages cost containment; and

7 (5) is unpredictable and lacks transparency.

8 (e) The Funding Report assessed various funding models that support
9 students who require additional support, including a census-based funding
10 model. A census-based model would award funding to supervisory unions
11 based on the number of students within the supervisory union and could be
12 used by the supervisory union to support the delivery of services to all
13 students. The Funding Report noted that the advantages of a census-based
14 model are that it is simple and transparent, allows flexibility in how the
15 funding is used by supervisory unions, is aligned with the policy priorities of
16 serving students who require additional support across the general and special
17 education service-delivery systems, and is predictable.

18 (f) The General Assembly finds that:

19 (1) ~~students~~ Students who require additional support would be better
20 served if supervisory unions adopted the best practices recommended in the
21 Delivery of Services Report. In this act, the term “students who require

1 additional support” means students who require additional assistance to be
2 successful in school or to complete secondary school, including students who
3 are on an individualized education program under the Individuals with
4 Disabilities Education Act, 20 U.S.C. § 1401 et. seq., or a plan under Section
5 504 of the Rehabilitation Act of 1973.

6 (2) the The State’s current reimbursement model of funding special
7 education serves as an impediment to adopting these best practices, largely due
8 to the constraint on the use of funds and the misalignment with the policy
9 priorities of serving students who require additional support across the general
10 and special education service-delivery systems.

11 (3) the The census-based model of funding for students who require
12 additional support would enable supervisory unions to adopt the best practices
13 recommended in the Delivery of Services Report, largely due to the flexibility
14 in how the funds could be used by supervisory unions and the alignment with
15 the policy priorities; and

16 (4) the census-based model of funding will result, over time, in cost
17 containment for special education services, which will be realized through
18 lower property tax rates or the ability for localities to use funds for other
19 educational purposes.

20 (g) The General Assembly recognizes that changing the models for
21 delivery of services and funding for students who require additional support is

1 a significant change for school systems and their constituencies, and that they
2 will require time and assistance in making necessary adjustments.

3 * * * Goals * * *

4 Sec. 2. GOALS

5 (a) By enacting this legislation, the General Assembly intends to enhance
6 the effectiveness, availability, and equity of services provided to all students
7 who require additional support in Vermont's school districts, including
8 students receiving special education services and students who need additional
9 support but do not receive special education services.

10 (b)(1) To support the enhanced delivery of these services, the State funding
11 model for special education shall change for all supervisory unions in fiscal
12 year 2021, for school year 2020-2021, from a reimbursement model to a
13 census-based model, which will provide more flexibility in how the funding
14 can be used, is aligned with the State's policy priorities of serving students
15 who require additional support across the general and special education
16 service-delivery systems, and will simplify administration.

17 (2) The General Assembly recognizes that students on an individualized
18 education program under the Individuals with Disabilities Education Act, 20
19 U.S.C. § 1401 et. seq., are entitled, under federal law, to a free and appropriate
20 public education in the least restrictive requirement. The changes to State
21 funding for special education and the delivery of special education services as

1 envisioned under this act are intended to facilitate the exercise of this
2 entitlement.

3 (c) To provide additional staff and resources to the Agency of Education to
4 support its work with supervisory unions and schools that are transitioning to
5 the best practices recommended in the report entitled “Expanding and
6 Strengthening Best-Practice Supports for Students who Struggle” issued by the
7 District Management Group in November 2017.

8 ~~*** Census-based Funding Early Implementation Program ***~~

9 Sec. 3. CENSUS-BASED FUNDING EARLY IMPLEMENTATION

10 PROGRAM

11 (a) The Census-based Funding Early Implementation Program (Program) is
12 created for fiscal year 2020, for the 2019-2020 school year. A supervisory
13 union may participate in the Program if it satisfies each of the following
14 conditions:

15 (1) it was included in the report delivered to the Agency of Education
16 entitled “Expanding and Strengthening Best-Practice Supports for Students
17 who Struggle” in November 2017 from the District Management Group or it
18 otherwise worked with the District Management Group to improve its delivery
19 of special education services; and

20 (2) it notifies the Agency of Education between October 1 and
21 October 15, 2018 of its election to participate in the Program.

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

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

10 (d)(1) As used in this subsection:

11 (A) “Average daily membership” shall have the same meaning as in
12 16 V.S.A. § 4001(1), except it shall exclude State-placed students.

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

17 (C) “Long-term membership” of a participating supervisory union in
18 any school year means the average of the participating supervisory union’s
19 average daily membership over three school years.

20 (2)(A) The amount of the educational support grant for a participating
21 supervisory union shall be:

1 ~~(i) the average amount it received for fiscal years 2016, 2017, and~~
2 ~~2018 from the State for special education under 16 V.S.A. §§ 2961 (standard~~
3 ~~mainstream block grants), 2963 (special education expenditures~~
4 ~~reimbursement), and 2963a (exceptional circumstances); increased by~~

5 ~~(ii) the annual change in the National Income and Product~~
6 ~~Accounts (NIPA) Implicit Price Deflator for State and Local Government~~
7 ~~Consumption Expenditures and Gross Investment as reported by the~~
8 ~~U.S. Department of Commerce, Bureau of Economic Analysis.~~

9 ~~(B) The amount determined under subdivision (A) of this subdivision~~
10 ~~(2) shall be divided by the participating supervisory union's long-term~~
11 ~~membership to determine the base amount of the educational support grant,~~
12 ~~which is the amount of the educational support grant calculated on a per~~
13 ~~student basis.~~

14 ~~(e)(1)(A) As used in this subsection (e), "child" means a student with~~
15 ~~disabilities who is three years of age or older in the current school year.~~

16 ~~(B) As used in this subsection (e), "extraordinary expenditures"~~
17 ~~means a participating supervisory union's allowable special education~~
18 ~~expenditures that for any one child in fiscal year 2020 exceed the threshold~~
19 ~~amount of \$60,000.00.~~

20 ~~(C) The State Board shall define allowable special education~~
21 ~~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 (2) ~~If a participating supervisory union has extraordinary expenditures,~~
4 ~~it shall be eligible for extraordinary special education reimbursement~~
5 ~~(extraordinary reimbursement) as provided in this subsection.~~

6 (3) ~~A participating supervisory union that has extraordinary~~
7 ~~expenditures in fiscal year 2020 for any one child shall be eligible for~~
8 ~~extraordinary reimbursement equal to:~~

9 (A) ~~an amount equal to its special education expenditures in that~~
10 ~~fiscal year for that child that exceed the extraordinary expenditures threshold~~
11 ~~amount under subdivision (1)(B) of this subsection (e) (excess expenditures)~~
12 ~~multiplied by 95 percent; plus~~

13 (B) ~~an amount equal to the lesser of:~~

14 (i) ~~the amount of its excess expenditures; or~~

15 (ii)(I) ~~the extraordinary expenditures threshold amount under~~
16 ~~subdivision (1)(B) of this subsection (e), minus~~

17 (II) ~~the base amount of the educational support grant received~~
18 ~~by the supervisory union under subdivision (d)(2)(B) of this section for that~~
19 ~~fiscal year, multiplied by~~

20 (III) ~~60 percent.~~

1 ~~(4) The State Board shall establish by rule the administrative process for~~
2 ~~supervisory unions to submit claims for extraordinary reimbursement under~~
3 ~~this subsection and for the review and payment of those claims.~~

4 ~~(f) The following sections of Title 16 shall not apply to the participating~~
5 ~~supervisory unions:~~

6 ~~(1) § 2961 (standard mainstream block grants);~~

7 ~~(2) § 2962 (extraordinary services reimbursement);~~

8 ~~(3) § 2963 (special education expenditures reimbursement);~~

9 ~~(4) § 2963a (exceptional circumstances);~~

10 ~~(5) § 2964 (service plan); and~~

11 ~~(6) § 2968 (reports).~~

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

18 ~~(h) The Secretary shall include the participating supervisory unions in the~~
19 ~~aid projection required by 16 V.S.A. § 2967 (aid projection; State share). The~~
20 ~~Secretary shall include in its report under 16 V.S.A. § 2974(a) (special~~
21 ~~education program; fiscal review).~~

1 ~~(1) the total amount of educational support grants made to participating~~
2 ~~supervisory unions under subsection (d) of this section; and~~
3 ~~(2) the total amount of extraordinary special education reimbursement~~
4 ~~made to participating supervisory unions under subsection (e) of this section.~~
5 ~~(i)(1) On or before August 15, 2019, December 15, 2019, and April 15,~~
6 ~~2020, based on a warrant issued by the Commissioner of Finance and~~
7 ~~Management, the State Treasurer shall withdraw from the Education Fund and~~
8 ~~shall forward to each participating supervisory union one-third of the~~
9 ~~educational support grant due to the supervisory union under subsection (d) of~~
10 ~~this section for fiscal year 2020.~~
11 ~~(2) On or before November 15, 2019, January 15, 2020, April 15, 2020,~~
12 ~~and August 1, 2020, each participating supervisory union, to the extent it~~
13 ~~incurs extraordinary special education expenditures under subsection (e) of this~~
14 ~~section, shall file a financial report with the Secretary in a form prescribed by~~
15 ~~the Secretary. The report shall describe total extraordinary special education~~
16 ~~expenditures actually incurred during the reporting period.~~
17 ~~(3) On or before December 15, 2019, February 15, 2020, May 15, 2020,~~
18 ~~and September 15, 2020, based on a warrant issued by the Commissioner of~~
19 ~~Finance and Management, the State Treasurer shall withdraw from the~~
20 ~~Education Fund and shall forward to each participating supervisory union the~~
21 ~~amount of extraordinary special education reimbursement incurred by the~~

1 ~~supervisory union under subsection (e) of this section that is unreimbursed and~~
2 ~~determined by the Agency of Education to be payable to the supervisory 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 November 1, 2018, each participating supervisory union~~
10 ~~shall submit to the Secretary such information as required by the Secretary to~~
11 ~~estimate the supervisory union’s projected extraordinary special education~~
12 ~~reimbursement for its next fiscal year under subsection (e) of this section.~~

13 (l) ~~The participating supervisory unions shall assist the Census-based~~
14 ~~Funding Advisory Group created under Sec. 9 of this act and the State Board~~
15 ~~of Education in the development of the State Board’s proposed rules to~~
16 ~~implement this act.~~

17 (m) ~~The Secretary of Education is empowered to apply, waive, or modify~~
18 ~~the application of State Board of Education rules for participating supervisory~~
19 ~~unions in a manner that is consistent with this section.~~

1 * * * Census-based Funding Model; Amendment of Special

2 Education Laws * * *

3 Sec. ~~4~~3. 16 V.S.A. chapter 101 is amended to read:

4 CHAPTER 101. SPECIAL EDUCATION

5 Subchapter 1. General Provisions

6 § 2941. POLICY AND PURPOSE

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

14 * * *

15 Subchapter 2. Aid for Special Education and Support Services

16 § 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ EDUCATIONAL
17 SUPPORT GRANT

18 (a) ~~Each supervisory union shall be eligible to receive a standard~~
19 ~~mainstream block grant each school year.~~ The mainstream block grant shall be
20 ~~equal to the supervisory union's mainstream salary standard multiplied by~~
21 ~~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” shall have the same meaning as in
11 subdivision 4001(1) of this title, except it shall exclude State-placed students.

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

19 ~~(3)(4)~~ “~~Educational support grant adjustment~~” “Supplemental grant
20 adjustment” means an increase, as determined by State Board of Education
21 rules, to the amount of the ~~educational support grant~~ census grant provided to a

1 supervisory union on account of the supervisory union's relatively higher costs
2 in supporting students who require additional support due to the number of
3 these students or the nature of the services required.



5 (b) The State commits to satisfying its special education maintenance of
6 fiscal support requirement under federal law (34 C.F.R. § 300.163(a)).

7 (c)(1) Each supervisory union shall be eligible to receive an educational
8 support grant a census grant each fiscal year to support the provision of the
9 supervisory union's comprehensive system of educational services, as required
10 under sections 2901 and 2902 of this title. The amount of the educational
11 support grant census grant for a supervisory union shall be calculated in
12 accordance with subsection (e)(d) of this section.

13 (2) Each supervisory union shall expend, during the fiscal year for
14 which the census grant was made, not less than 30 percent of its census grant
15 to implement individualized education programs for students with disabilities.
16 The State Board of Education shall adopt rules that require supervisory unions
17 to demonstrate compliance with this requirement.

18 (c)(d)(1)(A) For fiscal year 2021, the amount of the educational support
19 grant census grant for a supervisory union shall be:

20 (i) the average amount it received for fiscal years 2017, 2018, and
21 2019 from the State for special education under sections 2961 (standard

1 mainstream block grants), 2963 (special education expenditures
2 reimbursement), and 2963a (exceptional circumstances) of this title;
3 increased by

4 (ii) the annual change in the National Income and Product
5 Accounts (NIPA) Implicit Price Deflator for State and Local Government
6 Consumption Expenditures and Gross Investment as reported by the
7 U.S. Department of Commerce, Bureau of Economic Analysis.

8 (B) The amount determined under subdivision (A) of this subdivision
9 (1) shall be divided by the supervisory union's long-term membership, to
10 determine the base amount of the educational support grant census grant,
11 which is the amount of the educational support grant census grant calculated
12 on a per student basis.

13 ~~(2) The State Board of Education shall establish by rule a uniform base~~
14 ~~amount of the educational support grant that shall apply to all supervisory~~
15 ~~unions for fiscal year 2025. In determining the uniform base amount, the State~~
16 ~~Board of Education shall:~~

17 ~~(A) assume total State funding of educational support grants,~~
18 ~~including any educational support grant adjustments, in an amount that~~
19 ~~satisfies but does not exceed the amount necessary for the State to satisfy its~~
20 ~~special education maintenance of fiscal support requirement under federal~~
21 ~~law; and~~

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~~(B) take into account:~~

~~(i) the statewide average daily membership for students in
prekindergarten through grade 12;~~

~~(ii) the various fiscal year 2021 base amounts of the supervisory
unions; and~~

~~(iii) such other factors as the Board determines relevant.~~

~~(3) To determine the amount of a supervisory union's educational
support grant in fiscal year 2025 and subsequent fiscal years, the uniform base
amount shall be multiplied by the supervisory union's long-term membership.~~

~~(2) For fiscal year 2025 and subsequent fiscal years, the amount of the
census grant for a supervisory union shall be the uniform base amount
multiplied by the supervisory union's long-term membership. The uniform
base amount shall be determined by State Board of Education rules.~~

~~(4)(3) For fiscal years 2022, 2023, and 2024, the amount of the
educational support grant census grant for a supervisory union shall be
determined by multiplying the supervisory union's long-term membership by a
base amount established under State Board of Education rules. The base
amount established under State Board of Education rules shall be designed to
move gradually a supervisory union's fiscal year 2021 base amount to the
fiscal year 2025 uniform base amount established by the State Board under
subdivision (2) of this subsection.~~

1 ~~(5)(4)~~ For fiscal year 2021 and subsequent fiscal years, the amount of
2 ~~the educational support grant census grant~~ shall be increased by the
3 ~~[educational support grant adjustment]~~ supplemental grant adjustment for
4 ~~supervisory unions that qualify for the adjustment.~~

5 § 2962. EXTRAORDINARY SERVICES SPECIAL EDUCATION
6 REIMBURSEMENT

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

13 (b) ~~The amount of extraordinary services reimbursement provided to each~~
14 ~~district or supervisory union shall be equal to 90 95 percent of its extraordinary~~
15 ~~special education expenditures.~~

16 (c) ~~As used in this subchapter, “extraordinary special education~~
17 ~~expenditures” means a school district’s or supervisory union’s allowable~~
18 ~~expenditures that for any one child exceed \$70,000.00 \$60,000.00 for a fiscal~~
19 ~~year. In this subsection, child means a student with disabilities who is three~~
20 ~~years of age or older in the current school year. The State Board shall define~~
21 ~~allowable expenditures that shall include any expenditures required under~~

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

3 (1) As used in this section, “child” means a student with disabilities who
4 is 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 \$60,000.00, increased annually by the annual
8 change in the National Income and Product Accounts (NIPA) Implicit Price
9 Deflator for State and Local Government Consumption Expenditures and
10 Gross Investment as reported by the U.S. Department of Commerce, Bureau of
11 Economic Analysis.

12 (3) The State Board of Education shall define allowable special
13 education expenditures that shall include any expenditures required under
14 federal law and any costs of mediation conducted by a mediator who is
15 approved by the Secretary.

16 (b) If a supervisory union has extraordinary expenditures, it shall be
17 eligible for extraordinary special education reimbursement (extraordinary
18 reimbursement) as provided in this section.

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

1 (1) an amount equal to its special education expenditures in that fiscal
2 year for that child that exceed the extraordinary expenditures threshold amount
3 under subdivision (a)(2) of this section (excess expenditures) multiplied by
4 95 percent; plus

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

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

7 (B)(i) the extraordinary expenditures threshold amount under
8 subdivision (a)(2) of this section; minus

9 (ii) the base amount of the ~~educational support grant census grant~~
10 received by the supervisory union under subsection 2961 ~~(e)~~(d) of this title for
11 that fiscal year; multiplied by

12 (iii) 60 percent.

13 (d) The State Board of Education shall establish by rule the administrative
14 process for supervisory unions to submit claims for extraordinary
15 reimbursement under this section and for the review and payment of those
16 claims.

17 § 2963. ~~SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT~~

18 ~~(a) Based on where the related cost is incurred, each town school district,~~
19 ~~city school district, union school district, unified union school district,~~
20 ~~incorporated school district, the member school districts of an interstate school~~

1 ~~district, and unorganized town or gore or supervisory union shall receive a~~
2 ~~special education expenditures reimbursement grant each school year.~~

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

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

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

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

10 ~~(B) mainstream service costs, as defined in subdivision 2961(e)(1) of~~
11 ~~this title;~~

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

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

15 ~~(E) special education costs for a student eligible for aid under section~~
16 ~~2963a of this title; and~~

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

19 ~~(2) The State Board shall define allowable expenditures under this~~
20 ~~subsection. Allowable expenditures shall include any expenditures required~~
21 ~~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. [Repealed.]~~

4 § 2963a. ~~EXCEPTIONAL CIRCUMSTANCES~~

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

15 ~~(b) An eligible school district or supervisory union may apply to the~~
16 ~~Secretary to receive reimbursement under this section. The Secretary shall~~
17 ~~award reimbursement to a school district or supervisory union under this~~
18 ~~section if the Secretary makes a determination that the school district or~~
19 ~~supervisory union considered all the cost-effective and appropriate available~~
20 ~~alternatives for placement and programs for students before incurring these~~
21 ~~costs. A decision of the Secretary shall be final. [Repealed.]~~

1 § 2964. SERVICE PLAN

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

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

13 * * *

14 § 2967. AID PROJECTION; STATE SHARE

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

20 (b) ~~The total expenditures made by the State in any fiscal year pursuant to~~
21 ~~this chapter shall be 60 percent of the statewide total special education~~

1 ~~expenditures of funds that are not derived from federal sources.~~ Special As
2 used in this section, special education expenditures shall include:

3 (1) costs eligible for grants and reimbursements under ~~sections 2961~~
4 ~~through 2963a~~ section 2962 sections 2961 and 2962 of this title;

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

7 (3) costs for the interdisciplinary team program;

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

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

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

13 § 2968. ~~REPORTS~~

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

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

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

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

19 § 2969. PAYMENTS

20 (a)(1) On or before August 15, December 15, and April 15 of each fiscal
21 year, the State Treasurer shall withdraw from the Education Fund, based on a

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

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

19 (3) On or before December 15, February 15, May 15, and September 15
20 of each school year, based on a warrant issued by the Commissioner of
21 Finance and Management, the State Treasurer shall withdraw from the

1 Education Fund and shall forward to each supervisory union the amount of
2 extraordinary reimbursement incurred by the supervisory union under section
3 2962 of this title that is unreimbursed and determined by the Agency of
4 Education to be payable to the supervisory union.

5 (b) [Repealed.]

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

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

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

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

6 * * *

7 § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

9 (1) ~~special education expenditures by supervisory unions~~ the total
10 amount of educational support grant census grants made to supervisory unions
11 under section 2961 of this title;

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

16 (3) results for special education students;

17 (4) the availability of special education staff;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 ~~(e) The Secretary and Agency staff shall assist the high spending~~
21 ~~supervisory unions, that have been identified in subsection (a) of this section~~

1 ~~and have not presented an explanation for their spending that is satisfactory to~~
2 ~~the Secretary, to identify reasonable alternatives and to develop a remediation~~
3 ~~plan. Development of the remediation plan shall include an on-site review.~~

4 ~~The supervisory union shall have two years to make progress on the~~
5 ~~remediation plan. At the conclusion of the two years or earlier, the supervisory~~
6 ~~union shall report its progress on the remediation plan.~~

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

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

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

1 ~~failed to do so. The State Board's decision whether to withhold funds under~~
2 ~~this subdivision shall be final.~~

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

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

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

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

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

11 * * * Technical and Conforming Changes * * *

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

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

14 * * *

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

20 * * *

1 Sec. ~~6~~ 5. 16 V.S.A. § 2958 is amended to read:

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

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

7 * * *

8 ~~Sec. 7. 16 V.S.A. § 2973 is amended to read:~~

9 § 2973. INDEPENDENT SCHOOL TUITION RATES

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

17 (b) Neither ~~school districts~~ a supervisory union nor any State agency shall
18 pay rates for tuition, room, and board, for students receiving special education
19 in independent schools outside Vermont that are in excess of allowable costs
20 ~~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 Sec. ~~8~~ 6. 16 V.S.A. § 4002 is amended to read:

7 § 4002. PAYMENT; ALLOCATION

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

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

17 * * * Census-based Funding Advisory Group * * *

18 Sec. ~~9~~ 7. CENSUS-BASED FUNDING ADVISORY GROUP

19 (a) Creation. There is created the Census-based Funding Advisory Group
20 to consider and make recommendations on the implementation of a census-
21 based model of funding for students who require additional support.

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

2 ~~18~~ **12** 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)(5) the Executive Director of the Vermont Independent Schools~~
14 ~~Association or designee;~~

15 ~~•(7)(6) three representatives of the Agency of Education selected by the~~
16 ~~Secretary, one with management responsibility for special education practices,~~
17 ~~one with financial responsibility, and one with special education program~~
18 ~~responsibility the Secretary of Education or designee;~~

19 ~~•(8)(7) one member selected by the Vermont Superintendents~~
20 ~~Association;~~

21 ~~•(9)(8) one member selected by the Vermont Principals' Association;~~

1 ~~(10) two members selected by the Vermont Council of Special~~

2 ~~Education Administrators;~~

3 ~~(11)(9) one member selected by the Vermont-National Education~~

4 ~~Association who is a special education teacher;~~

5 ~~(12)(10) two members one member selected by the Vermont Association~~
6 ~~of School Business Officials;~~

7 ~~(13)(11) one member selected by the Vermont Legal Aid Disability Law~~
8 ~~Project; and~~

9 ~~(14)(12) one member who is either a family member, guardian, or~~
10 ~~education surrogate of a student requiring special education services or a~~
11 ~~person who has received special education services directly, selected by the~~
12 ~~Vermont Coalition for Disability Rights.~~

13 (c) Powers and duties. The Advisory Group shall:

14 (1) advise the State Board of Education on the development of proposed
15 rules to implement this act prior to the submission of the proposed rules to the
16 Interagency Committee on Administrative Rules;

17 (2) advise the Agency of Education and supervisory unions on the
18 implementation of this act; and

19 (3) recommend to the General Assembly any statutory changes it
20 determines are necessary or advisable to meet the goals of this act; and

1 ~~(4) consider the State's special education maintenance of fiscal support~~
2 ~~requirements under federal law and supervisory unions' maintenance of effort~~
3 ~~requirements under federal law and recommend to the General Assembly and~~
4 ~~the Agency of Education options that may allow State and local special~~
5 ~~education spending in a manner that complies with these requirements while~~
6 ~~containing costs.~~

7 (d) Assistance. The Advisory Group shall have the administrative,
8 technical, and legal assistance of the Agency of Education.

9 (e) Meetings.

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

12 (2) The Advisory 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 Advisory Group shall cease to exist on June 30, 2020.

16 (f) Reports. On or before January 15, 2019, the Advisory Group shall
17 submit a written report to the House and Senate Committees on Education and
18 the State Board of Education with its findings and recommendations on the
19 development of proposed rules to implement this act and any recommendations
20 for any amendments to legislation. On or before January 15, 2020, the
21 Advisory Group shall submit a supplemental written report to the House and

1 Senate Committees on Education and the State Board of Education with a
2 status of implementation under this act and any recommendations for any
3 amendments to legislation.

4 (g) Reimbursement. Members of the Advisory Group who are not
5 employees of the State of Vermont and who are not otherwise compensated or
6 reimbursed for their attendance shall be entitled to per diem compensation and
7 reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than
8 16 meetings.

9 (h) Appropriation. Notwithstanding any provision to the contrary in
10 16 V.S.A. § 4025, the The sum of \$7,200.00 \$6000.00 [6 X \$50 X 16 =
11 \$4,800, + \$1,200 for mileage] is appropriated for fiscal year 2018 from the
12 General Fund to the Agency of Education to provide funding for the purposes
13 set forth in this section.

14 * * * Report on Methods to Further the Quality and Equity of Educational
15 Outcomes for Students * * *

16 Sec. ~~10~~ 8. REPEAL

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

18 Sec. ~~11~~ 9. REPORT ON METHODS TO FURTHER THE QUALITY AND
19 EQUITY OF EDUCATIONAL OUTCOMES FOR STUDENTS

20 (a) The Agency of Education, in consultation with the Secretary of Human
21 Services, the Vermont Superintendents Association, the Vermont School

1 Boards Association, and the Vermont-National Education Association, shall
2 consider and make recommendations on the following:

3 (1) Methods, other than the use of per pupil weighting factors, that
4 would further the quality and equity of educational outcomes for students.

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

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

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

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

16 (D) Whether to add any weighting factors, including a school district
17 population density factor and a factor for students who attend regional career
18 technical education centers, and if so, why the weighting factor should be
19 added and if the weighting factor would further the quality and equity of
20 educational outcomes for students. In considering whether to recommend the
21 addition of a school district population density factor, the Agency of Education

1 shall consider the practices of other states, information from the National
2 Conference of State Legislatures, and research conducted by higher education
3 institutions working on identifying rural or urban education financing factors.

4 (3) The criteria to be applied by the State Board of Education in its
5 rulemaking process for increasing the amount of educational support grant
6 census grants paid by the State to supervisory unions in order to provide
7 additional financial support to supervisory unions with relatively high costs
8 due to the number of students who require additional support or the nature of
9 the services required. The criteria shall include the qualification requirements
10 for the adjustment and the manner in which the adjustment should be applied.
11 definition of the term “supplemental grant adjustment” as used in the
12 amendment to 16 V.S.A. § 2961 in Sec. 3 of this act. In making this
13 recommendation, the Agency of Education shall consider the report entitled
14 “Study of Vermont State Funding for Special Education” issued in December
15 2017 by the University of Vermont Department of Education and Social
16 Services.

17 (b) On or before March 15, 2019, the Agency of Education shall submit a
18 written report to the House and Senate Committees on Education, the House
19 Committee on Ways and Means, and the Senate Committee on Finance with its
20 findings and any recommendations.

1 embedding the following best practices for the delivery of special education
2 services:

3 (1) ensuring core instruction meets most needs of most students;

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

7 (3) ensuring students who require additional support receive all
8 instruction from highly skilled teachers;

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

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

13 (b) The sum of \$200,000.00 is appropriated from federal funds that are
14 available under the Individuals with Disabilities Education Act for fiscal
15 year 2019 to the Agency of Education, which the Agency shall administer in
16 accordance with this section. The Agency shall include in its budget request to
17 the General Assembly for each of fiscal years 2020 and 2021 the amount of
18 \$200,000.00 from federal funds that are available under the Individuals with
19 Disabilities Education Act for administration in accordance with this section.

20 (c) The Agency of Education shall present to the General Assembly on or
21 before December 15 in 2019, 2020, and 2021 a report describing what changes

1 supervisory unions have made to expand and improve their delivery of services
2 to students who require additional supports and describing the associated
3 delivery challenges. The Agency shall share each report with all supervisory
4 unions.

5 * * * Agency of Education; Staffing * * *

6 Sec. ~~13~~ 11. AGENCY OF EDUCATION; STAFFING

7 The following positions are created in the Agency of Education: one full-
8 time, exempt legal counsel specializing in special education law and two full-
9 time, classified positions specializing in special education programming.

10 There is appropriated to the Agency of Education from the General Fund for
11 fiscal year 2019 the amount of \$325,000.00 for salaries, benefits, and operating
12 expenses.

13 * * * Extraordinary Services Reimbursement * * *

14 Sec. ~~14~~ 12. 16 V.S.A. § 2962 is amended to read:

15 § 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

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

1 (b) The amount of extraordinary services reimbursement provided to each
2 district or supervisory union shall be equal to ~~90~~ 95 percent of its extraordinary
3 special education expenditures.

4 (c) As used in this subchapter, “extraordinary special education
5 expenditures” means a school district’s or supervisory union’s allowable
6 expenditures that for any one child exceed ~~\$50,000.00~~ \$60,000.00 for a fiscal
7 year. In this subsection, child means a student with disabilities who is three
8 years of age or older in the current school year. The State Board shall define
9 allowable expenditures that shall include any expenditures required under
10 federal law, and any costs of mediation conducted by a mediator who is
11 approved by the Secretary.

12 Sec. ~~15~~ 13. 16 V.S.A. § 4001 is amended to read:

13 § 4001. DEFINITIONS

14 As used in this chapter:

15 * * *

16 (6) “Education spending” means the amount of the school district
17 budget, any assessment for a joint contract school, career technical center
18 payments made on behalf of the district under subsection 1561(b) of this title,
19 and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is
20 paid for by the school district, but excluding any portion of the school budget
21 paid for from any other sources such as endowments, parental ~~fund-raising~~

1 fundraising, federal funds, nongovernmental grants, or other State funds such
2 as special education funds paid under chapter 101 of this title.

3 (A) [Repealed.]

4 (B) For purposes of calculating excess spending pursuant to
5 32 V.S.A. § 5401(12), “education spending” shall not include:

6 * * *

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

11 * * *

12 * * * Rulemaking * * *

13 ~~Sec. 16. RULEMAKING~~

14 ~~The State Board of Education shall adopt such rules as are necessary to~~
15 ~~implement this act. The State Board and the Agency of Education shall~~
16 ~~consult with the Census-based Funding Advisory Group established under~~
17 ~~Sec. 9 of this act in developing the State Board rules, and the State Board shall~~
18 ~~take into consideration the weighting study report required under Sec. 11 of~~
19 ~~this act. The State Board rules shall include rules that:~~

20 ~~(1) define the term “educational support grant adjustment” as used in the~~
21 ~~amendment to 16 V.S.A. § 2961 in Sec. 4 of this act.~~

1 ~~(2) establish a “uniform base amount,” as that term is used in the~~
2 ~~amendment to 16 V.S.A. § 2961 in Sec. 4 of this act, that shall apply to all~~
3 ~~supervisory unions for fiscal year 2025; and~~
4 ~~(3) for fiscal years 2022, 2023, and 2024, establish “base amounts,” as~~
5 ~~that term is used in the amendment to 16 V.S.A. § 2961 in Sec. 4 of this act, to~~
6 ~~move gradually supervisory unions’ fiscal year 2021 base amounts to the fiscal~~
7 ~~year 2025 uniform base amount.~~

8 **Sec. 14. RULEMAKING**

9 On or before July 1, 2020, the State Board of Education shall adopt such
10 rules as are necessary to implement this act, and the Agency of Education shall
11 recommend to the State Board proposed rules as are necessary to implement
12 this act. The State Board and the Agency of Education shall consult with the
13 Census-based Funding Advisory Group established under Sec. 7 of this act in
14 developing the State Board rules. The State Board rules shall include rules
15 that:

16 (1) Define the term “supplemental grant adjustment” as used in the
17 amendment to 16 V.S.A. § 2961 in Sec. 3 of this act. The purpose of this
18 adjustment is to increase the amount of the census grant provided to
19 supervisory unions that have relatively higher costs in supporting students who
20 require additional support due to the number of these students or the nature of
21 the services required. In defining this term, the State Board shall establish the

1 criteria for qualification for the adjustment and the manner in which the
2 adjustment shall be applied. These criteria shall be designed to mitigate the
3 risk that supervisory unions, in order to qualify for the adjustment, overidentify
4 students who require additional support or overstate the severity of the support
5 required. In defining the term “supplemental grant adjustment,” the State
6 Board shall consider the Agency’s report on methods to further the quality and
7 equity of educational outcomes for students required under Sec. 9 of this act
8 and the report entitled “Study of Vermont State Funding for Special
9 Education” issued in December 2017 by the Department of Education and
10 Social Services of the University of Vermont and State Agricultural College.

11 (2) Establish a “uniform base amount,” as that term is used in the
12 amendment to 16 V.S.A. § 2961 in Sec. 3 of this act, or the calculation
13 methodology for determining the uniform base amount, that shall apply to all
14 supervisory unions for fiscal year 2025 and subsequent fiscal years. The
15 amount of the census grant for a supervisory union for these fiscal years is
16 determined by multiplying the uniform base amount by the supervisory union’s
17 long-term membership. In determining the uniform base amount or the
18 calculation methodology for determining that amount, the State Board of
19 Education shall:

20 (A) divide:

21 (i) an amount:

1 (I) equal to the average State appropriation for fiscal years
2 2018, 2019, and 2020 for special education under 16 V.S.A. §§ 2961 (standard
3 mainstream block grants), 2963 (special education expenditures
4 reimbursement), and 2963a (exceptional circumstances);

5 (II) increased by the annual change in the National Income and
6 Product Accounts (NIPA) Implicit Price Deflator for State and Local
7 Government Consumption Expenditures and Gross Investment as reported by
8 the U.S. Department of Commerce, Bureau of Economic Analysis; by

9 (ii) the statewide average daily membership for prekindergarten
10 through grade 12 for the 2019–2020 school year, resulting in the unadjusted
11 uniform base amount; and

12 (B) reduce the unadjusted uniform base amount by an amount
13 necessary to accommodate State funding of the supplemental grant adjustment
14 for those supervisory unions that qualify for the adjustment, in a manner that
15 ensures that the State complies with its commitment to satisfy its special
16 education maintenance of fiscal support requirement under federal law but
17 does not exceed the appropriation amount that is necessary for the State to
18 satisfy this requirement.

19 (3)(A) For fiscal years 2022, 2023, and 2024, establish “base amounts,”
20 as that term is used in the amendment to 16 V.S.A. § 2961 in Sec. 3 of this act,
21 or the calculation methodology for determining these base amounts, to move

1 gradually supervisory unions' fiscal year 2021 base amounts to the fiscal year
2 2025 uniform base amount. The State Board may establish base amounts for
3 these fiscal years that pro rate the change between the supervisory unions'
4 fiscal year 2021 base amounts and the fiscal year 2025 uniform base amount,
5 or may otherwise establish base amounts for these fiscal years that the State
6 Board determines are fair and equitable in moving supervisory unions to the
7 uniform base amount.

8 (B) For fiscal years 2023 and 2024, the supplemental grant
9 adjustment shall be applied to the base amounts for those supervisory unions
10 that qualify for the adjustment. Before that adjustment is applied, all base
11 amounts shall be reduced by an amount necessary to accommodate State
12 funding of the adjustment in a manner that ensures that the State complies with
13 its commitment to satisfy its special education maintenance of fiscal support
14 requirement under federal law but does not exceed the appropriation amount
15 that is necessary for the State to satisfy this requirement.

16 (4) Establish processes for reporting, monitoring, and evaluation
17 designed to ensure the achievement of the goal of enhancing the effectiveness,
18 availability, and equity of services provided to all students who require
19 additional support in Vermont's school districts.

20 * * * Transition * * *

21 Sec. 47 15. TRANSITION

1 (a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a
2 supervisory union to submit a service plan to the Secretary of Education, a
3 supervisory union shall not be required to submit a service plan for fiscal year
4 2021.

5 (b) On or before November 1, 2019, a supervisory union shall submit to the
6 Secretary such information as required by the Secretary to estimate the
7 supervisory union's projected fiscal year 2021 extraordinary special education
8 reimbursement under Sec. ~~4-3~~ of this act.

9 (c) The Agency of Education shall assist supervisory unions as they
10 transition to the census-based funding model in satisfying their maintenance of
11 effort requirements under federal law.

12 Sec. ~~18~~ 16. **TRANSITION FOR** ALLOWABLE SPECIAL EDUCATION

13 COSTS

14 (a) Allowable special education costs shall include salaries and benefits of
15 licensed special education teachers, including vocational special needs teachers
16 and instructional aides for the time they carry out special education
17 responsibilities.

18 (1) The allowable cost that a local education agency may claim includes
19 a school period or service block during which the staff member identified in
20 this subsection is providing special education services to a group of eight or
21 fewer students, and not less than 25 percent of the students are receiving the

1 special education services, in accordance with their individualized education
2 programs.

3 (2) In addition to the time for carrying out special education
4 responsibilities, a local education agency may claim up to 20 percent of special
5 education staff members' time, if that staff spends the additional time
6 performing consultation to assist with the development of and providing
7 instructional services required by:

8 (A) a plan pursuant to Section 504 of the Rehabilitation Act of 1973,
9 as amended; or

10 (B) a plan for students who require additional assistance in order to
11 succeed in the general education environment.

12 (b) This section is repealed on July 1, 2020.

13 *** Approved Independent Schools ***

14 Sec. 17. FINDINGS AND GOALS

15 (a) The General Assembly created the Approved Independent Schools
16 Study Committee in 2017 Acts and Resolves No. 49 to consider and make
17 recommendations on the criteria to be used by the State Board of Education for
18 designation of an "approved" independent school. The Committee was
19 specifically charged to consider and make recommendations on:

20 (1) the school's enrollment policy and any limitation on a student's
21 ability to enroll;

1 (2) how the school should be required to deliver special education
2 services and which categories of these services; and

3 (3) the scope and nature of financial information and special education
4 information that should be required to be reported by the school to the State
5 Board or Agency of Education.

6 (b) The General Assembly in Act 49 directed the State Board of Education
7 to suspend further development of the amendments to its rules for approval of
8 independent schools pending receipt of the report of the Committee.

9 (c) The Committee issued its report in December 2017, noting that, while it
10 was unable to reach consensus on specific legislative language, it did agree
11 unanimously that Vermont students with disabilities should be free to attend
12 the schools that they, their parents, and their local education agency deem
13 appropriate to them.

14 (d) This act completes that work and provides the direction necessary for
15 the State Board of Education to develop further the amendments to its rules for
16 approval of independent schools.

17 Sec. 18. 16 V.S.A. § 166 is amended to read:

18 § 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

19 * * *

20 (b) Approved independent schools.

1 (1) On application, the State Board shall approve an independent school
2 that offers elementary or secondary education if it finds, after opportunity for
3 hearing, that the school provides a minimum course of study pursuant to
4 section 906 of this title and that it substantially complies with all statutory
5 requirements for approved independent schools and the Board's rules for
6 approved independent schools. An independent school that intends to accept
7 public tuition shall be approved by the State Board only on the condition that
8 the school agrees, notwithstanding any provision of law to the contrary, to
9 enroll any student who requires special education services and who is placed in
10 or referred to the approved independent school as an appropriate placement
11 and least restrictive environment for the student by the student's individualized
12 education plan team or by the local education agency; provided, however, that
13 this requirement shall not apply to an independent school that limits enrollment
14 to students who are on an individualized education plan or a plan under Section
15 504 of the Rehabilitation Act of 1973 and who are enrolled pursuant to a
16 written agreement between the local education agency and the school.

17 (2) Except as provided in subdivision (6) of this subsection, the Board's
18 rules must at minimum require that the school has the resources required to
19 meet its stated objectives, including financial capacity, faculty who are
20 qualified by training and experience in the areas in which they are assigned,

1 and physical facilities and special services that are in accordance with any
2 State or federal law or regulation.

3 (3) Approval may be granted without State Board evaluation in the case
4 of any school accredited by a private, State, or regional agency recognized by
5 the State Board for accrediting purposes, provided that the State Board shall
6 determine that the school complies with all student enrollment provisions
7 required by law.

8 * * *

9 (5) The State Board may revoke, ~~or suspend,~~ or impose conditions upon
10 the approval of an approved independent school, after having provided an
11 opportunity for a hearing, for substantial failure to comply with the minimum
12 course of study, for failure to demonstrate that the school has the resources
13 required to meet its stated objectives, for failure to comply with statutory
14 requirements or the Board's rules for approved independent schools, or for
15 failure to report under subdivision (4) of this subsection (b). Upon that
16 revocation or suspension, students required to attend school who are enrolled
17 in that school shall become truant unless they enroll in a public school, an
18 approved or recognized independent school, or a home study program.

19 * * *

20 (8)(A) If an approved independent school experiences any of the
21 following financial reporting events during the period of its approved status,

1 the school shall notify the Secretary of Education within five days after its
2 knowledge of the event unless the failure is de minimis:

3 (i) the school's failure to file its federal or State tax returns when
4 due, after permissible extension periods have been taken into account;

5 (ii) the school's failure to meet its payroll obligations as they are
6 due or to pay federal or State payroll tax obligations as they are due;

7 (iii) the school's failure to maintain required retirement
8 contributions;

9 (iv) the school's use of designated funds for nondesignated
10 purposes;

11 (v) the school's inability to fully comply with the financial terms
12 of its secured installment debt obligations over a period of two consecutive
13 months, including the school's failure to make interest or principal payments
14 as they are due or to maintain any required financial ratios;

15 (vi) the withdrawal or conditioning of the school's accreditation
16 on financial grounds by a private, State, or regional agency recognized by the
17 State Board for accrediting purposes; or

18 (vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

19 (B)(i) If the State Board reasonably believes that an approved
20 independent school lacks financial capacity to meet its stated objectives during
21 the period of its approved status, then the State Board shall notify the school in

1 writing of the reasons for this belief and permit the school a reasonable
2 opportunity to respond.

3 (ii) If the State Board, after having provided the school a
4 reasonable opportunity to respond, does not find that the school has
5 satisfactorily responded or demonstrated its financial capacity, the State Board
6 may establish a review team, that, with the consent of the school, includes a
7 member of the Council of Independent Schools, to:

8 (I) conduct a school visit to assess the school's financial
9 capacity;

10 (II) obtain from the school such financial documentation as the
11 review team requires to perform its assessment; and

12 (III) submit a report of its findings and recommendations to the
13 State Board.

14 (iii) If the State Board concludes that an approved independent
15 school lacks financial capacity to meet its stated objectives during the period of
16 its approved status, the State Board may take any action that is authorized by
17 this section.

18 (iv) In considering whether an independent school lacks financial
19 capacity to meet its stated objectives during the period of its approved status
20 and what actions the State Board should take if it makes this finding, the State

1 Board may consult with, and draw on the analytical resources of, the Vermont
2 Department of Financial Regulation.

3 (C) Information provided by an independent school under this
4 subsection that is not already in the public domain is exempt from public
5 inspection and copying under the Public Records Act and shall be kept
6 confidential.

7 * * *

8 Sec. 19. 16 V.S.A. § 2973 is amended to read:

9 § 2973. INDEPENDENT SCHOOL TUITION RATES SCHOOLS

10 (a)(1) Notwithstanding any provision of law to the contrary, an approved
11 independent school that accepts public tuition shall enroll any student with an
12 individualized education plan who requires special education services and who
13 is placed in the approved independent school as an appropriate placement and
14 least restrictive environment for the student by the student's individualized
15 education plan team or by the local education agency (LEA); provided,
16 however, that this requirement shall not apply to an independent school that
17 limits enrollment to students who are on an individualized education plan or a
18 plan under Section 504 of the Rehabilitation Act of 1973 and who are enrolled
19 pursuant to a written agreement between the LEA and the school.

1 (2) In placing a student with an independent school under subdivision
2 (1) of this subsection, the student's individualized education plan team and the
3 LEA shall comply with all applicable federal and State requirements.

4 (3) An approved independent school is not required to demonstrate that
5 it has the resources to serve every category of special education in order to be
6 approved or retain its approval to receive public funding for general tuition.

7 (4) The terms "special education services," "LEA," and "individualized
8 education plan" or "IEP" as used in this section shall have the same meanings
9 as defined by State Board rules.

10 (b)(1) The Secretary of Education shall establish minimum standards of
11 services for students receiving special education services in independent
12 schools in Vermont; shall set, after consultation with independent schools in
13 Vermont, the maximum rates to be paid by the Agency and school districts for
14 tuition, room, and board based on the level of services; and may advise
15 independent schools as to the need for certain special education services in
16 Vermont.

17 (2)(A) The Secretary of Education shall set, after consultation with
18 independent schools in Vermont, and based on the level of services provided
19 by the schools, the maximum rates to be paid by the Agency and supervisory
20 unions or school districts for tuition, room, and board for residential placement
21 of students who require special education services. The amount charged by an

1 independent school for tuition shall reflect the school's actual or anticipated
2 costs of providing special education services to the student and shall not
3 exceed the maximum rates set by the Secretary, provided that the Secretary
4 may permit charges in excess of these maximum rates where the Secretary
5 deems warranted.

6 (B)(i) An approved independent school that enrolls a student under
7 subdivision (a)(1) of this section on a nonresidential basis may bill the
8 responsible LEA for excess special education costs incurred by the
9 independent school in providing special education services beyond those
10 covered by general tuition. Reimbursement of these excess special education
11 costs shall be based on the direct-costs rates approved by the Secretary for
12 services actually provided to the student consistent with the Agency of
13 Education Technical Manual for special education cost accounting. The
14 Agency of Education shall publish specific elements that must be included as
15 part of an independent school's invoice for excess special education costs, and
16 these elements shall be included in the written agreement required under
17 subdivision (c)(2) of this section.

18 (ii) In establishing the direct cost rates for reimbursement under this
19 subdivision (B), the Secretary shall apply the principle of treating an approved
20 independent school and a public school with parity in the amount of federal,

1 State and local contributions to cover the costs of providing special education
2 services.

3 (C)(i) The Secretary shall set, after consultation with independent
4 schools in Vermont, the maximum tuition rates to be paid by the Agency and
5 supervisory unions or school districts to independent schools that limit
6 enrollment to students who are on an IEP or a plan under Section 504 of the
7 Rehabilitation Act of 1973 and who are enrolled pursuant to a written
8 agreement between the LEA and the school. The maximum tuition rates shall
9 be based on the level of services provided by the school.

10 (ii) The tuition rates established by the Secretary under this
11 subdivision (C) shall be no more than the costs that are reasonably related to
12 the level of services provided by the school and shall be set forth on a form
13 prescribed for that purpose by the Secretary of Education. The Secretary shall
14 determine the relationship between costs and the level of services by using
15 generally accepted accounting principles, such as those set forth in the
16 Handbook (II) for Financial Accounting of Vermont School Systems.

17 (iii) After the Secretary approves a tuition rate for an independent
18 school under this subdivision (C), the school shall not exceed that tuition rate
19 until such time as a new tuition rate is approved by the Secretary.

20 (3) An approved independent school shall provide such documentation
21 to the Secretary as the Secretary deems necessary in order to ensure that

1 amounts payable under this subsection to the school are reasonable in relation
2 to the special education services provided by the school. The Secretary may
3 withhold, or direct an LEA to withhold, payment under this subsection pending
4 the Secretary's receipt of required documentation under this subsection, or may
5 withhold, or direct an LEA to withhold, an amount determined by the
6 Secretary as not reasonable in relation to the special education services
7 provided by the school.

8 (c)(1) In order to be approved as an independent school eligible to receive
9 State funding under subdivision (a)(1) of this section, the school shall
10 demonstrate the ability to serve students with disabilities by:

11 (A) demonstrating an understanding of special education
12 requirements, including the:

13 (i) provision of a free and appropriate public education in
14 accordance with federal and State law;

15 (ii) provision of education in the least restrictive environment in
16 accordance with federal and State law;

17 (iii) characteristics and educational needs associated with any of
18 the categories of disability or suspected disability under federal and State
19 law; and

20 (iv) procedural safeguards and parental rights, including discipline
21 procedures, specified in federal and State law;

1 (B) committing to implementing the IEP of an enrolled student with
2 special education needs, providing the required services, and appropriately
3 documenting the services and the student's progress;

4 (C) subject to subsection (d) of this section, employing or contracting
5 with staff who have the required licensure to provide special education
6 services;

7 (D) agreeing to communicate with the responsible LEA concerning:

8 (i) the development of, and any changes to, the IEP;

9 (ii) services provided under the IEP and recommendations for a
10 change in the services provided;

11 (iii) the student's progress;

12 (iv) the maintenance of the student's enrollment in the
13 independent school; and

14 (v) the identification of students with suspected disabilities; and

15 (E) committing to participate in dispute resolution as provided under
16 federal and State law.

17 (2) An approved independent school that enrolls a student requiring
18 special education services who is placed under subdivision (a)(1) of this
19 section:

20 (A) shall enter into a written agreement with the LEA;

1 (i) committing to the requirements under subdivision (1) of this
2 subsection (c); and

3 (ii) if the LEA provides staff or resources to the approved
4 independent school on an interim basis under subsection (d) of this section,
5 setting forth the terms of that arrangement with assistance from the Agency of
6 Education on the development of those terms and on the implementation of the
7 arrangement; and

8 (B) subject to subsection (d) of this section, shall ensure that
9 qualified school personnel attend evaluation and planning meetings and IEP
10 meetings for the student.

11 (d) If an approved independent school enrolls a student under subdivision
12 (a)(1) of this section but does not have the staff or State Board certification to
13 provide special education services in the specific disability category that the
14 student requires, then:

15 (1) The LEA, in consultation with the approved independent school and
16 the Agency of Education, shall determine what special education services and
17 supports the school is able to provide to the student.

18 (2) The LEA shall, on an interim basis and at its cost, provide such
19 additional staff and other resources to the approved independent school as are
20 necessary to support the student until such time as the approved independent
21 school is able to directly provide these services and has the appropriate State

1 Board certification; provided, however, that the school shall have all required
2 staff and resources and the appropriate State Board certification within nine
3 academic months after the date of the student's initial enrollment.

4 (3) If the school does not have all required staff and resources and the
5 appropriate State Board certification within nine academic months after the
6 date of the student's initial enrollment as required under subdivision (2) of this
7 subsection (d), then, in the event that the State Board determines that the
8 school has failed to make good faith and reasonable efforts to secure the
9 required staff, resources, and certification, the State Board may take any action
10 that is authorized by section 166 of this title.

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

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

* * * Effective Dates * * *

1
2 Sec. ~~19~~20. EFFECTIVE DATES

3 (a) The following sections shall take effect on July 1, 2020:

4 (1) Sec. ~~4~~3 (amendment to 16 V.S.A. chapter 101);

5 (2) Sec. ~~17~~15 (transition).

6 (b) The following sections shall take effect on July 1, 2019:

7 (1) Sec. ~~14~~12 (extraordinary services reimbursement); and

8 (2) Sec. ~~15~~13 (amendment to 16 V.S.A. § 4001).

9 (c) This section and the remaining sections shall take effect on passage.