

**No. 112. An act relating to delaying special education changes due to the COVID-19 state of emergency.**

(S.343)

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

Sec. 1. 16 V.S.A. § 2961 is amended to read:

§ 2961. CENSUS GRANT

(a) As used in this section:

\* \* \*

(3) “Long-term membership” of a supervisory union in any school year means the average of the supervisory union’s average daily membership over the most recent three school years for which data are available.

(4) “Uniform base amount” means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; and

(ii) increased by:

(I) for each of fiscal years 2021, 2022, and 2023, the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis (inflation factor); and

(II) for each of fiscal years 2024, 2025, and 2026, the average inflation factor for fiscal years 2021, 2022, and 2023; by

(B) the statewide ~~average daily membership for prekindergarten through grade 12 for the 2019–2020 school year~~ long-term membership.

\* \* \*

(d)(1)(A) For fiscal year ~~2021~~ 2023, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years ~~2017, 2018, and 2019~~ 2018, 2019, and 2020 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

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

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

(2) For fiscal year ~~2025~~ 2027 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.

(3) For fiscal years ~~2022, 2023, and 2024~~ 2024, 2025, and 2026, the amount of the census grant for a supervisory union shall be determined by multiplying the supervisory union's long-term membership by a base amount established under this subdivision. The base amounts for each supervisory union for fiscal years ~~2022, 2023, and 2024~~ 2024, 2025, and 2026 shall move gradually the supervisory union's fiscal year ~~2021~~ 2023 base amount to the fiscal year ~~2025~~ 2027 uniform base amount by prorating the change between the supervisory union's fiscal year ~~2021~~ 2023 base amount and the fiscal year ~~2025~~ 2027 uniform base amount over this three-fiscal-year period.

Sec. 2. 16 V.S.A. § 2967 is amended to read:

§ 2967. AID PROJECTION

(a) On or before December 15, the Secretary shall publish an estimate, by each supervisory union, of its anticipated State special education ~~expenditures~~ funding under this chapter for the ensuing school year.

(b) As used in this section, State special education ~~expenditures~~ funding shall include:

(1) ~~costs~~ funds eligible for grants and reimbursements under sections 2961 and 2962 of this title;

(2) ~~costs~~ funds for services for persons who are visually impaired;

- (3) ~~costs~~ funds for persons who are deaf or hard of hearing;
- (4) ~~costs~~ funds for the interdisciplinary team program;
- (5) funds expended for training and programs to meet the needs of students with emotional or behavioral challenges under subsection 2969(c) of this title; and
- (6) funds expended for training under subsection 2969(d) of this title.

Sec. 3. 16 V.S.A. § 2975 is amended to read:

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL  
ASSISTANCE

The Secretary may use ~~up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature~~ funds for allowable special education expenditures, as defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. These funds shall be appropriated in the amount of two percent times the census grant as defined in section 2961 of this title.

The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

Sec. 4. 2018 Acts and Resolves No. 173, Sec. 9, is amended to read:

Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

\* \* \*

(e) Meetings.

\* \* \*

(4) The Advisory Group shall cease to exist on June 30, ~~2022~~ 2023.

\* \* \*

(g) Reimbursement. Members of the Advisory Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses ~~pursuant to~~ as permitted under 32 V.S.A. § 1010 for not more than eight meetings per year in fiscal years 2019 and 2020 and not more than 12 meetings per year in fiscal years 2021, 2022, and 2023.

(h) Appropriation. The sum of \$5,376.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. The sum of \$9,018.00 is appropriated for fiscal year 2021 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years ~~2020, 2021, and 2022~~ and 2023 the amount of ~~\$5,376.00~~ \$9,018.00 to provide funding for per diem compensation and reimbursement under subsection (g) of this section.

Sec. 5. 2018 Acts and Resolves No. 173, Sec. 16 is amended to read:

Sec. 16. RULEMAKING

The Agency of Education shall recommend to the State Board proposed rules that are necessary to implement Secs. 3–5 of this act and, on or before August 1, ~~2020~~ 2021, the State Board of Education shall initiate rules that are necessary to implement Secs. 3–5 of this act. The State Board and the Agency of Education shall consult with the Census-based Funding Advisory Group established under Sec. 9 of this act in developing the State Board rules. The State Board rules shall include rules that establish processes for reporting, monitoring, and evaluation designed to ensure:

\* \* \*

Sec. 6. 2018 Acts and Resolves No. 173, Sec. 17 is amended to read:

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year ~~2021~~ 2023.

(b) On or before November 1, ~~2019~~ 2021, a supervisory union shall submit to the Secretary such information as required:

(1) by the Secretary to estimate the supervisory union's projected fiscal year ~~2021~~ 2023 extraordinary special education reimbursement under Sec. 5 of this act; and

(2) for IDEA reporting in a format specified by the Secretary.

\* \* \*

Sec. 7. 2018 Acts and Resolves No. 173, Sec. 18 is amended to read:

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION  
COSTS

\* \* \*

(b) This section is repealed on July 1, ~~2020~~ 2022.

Sec. 8. 2018 Acts and Resolves No. 173, Sec. 18 is amended to read:

Sec. 22. SPECIAL EDUCATION ENDORSEMENT; APPROVAL FOR  
SPECIAL EDUCATION CATEGORIES

\* \* \*

(b) On or before ~~November 1, 2020~~ June 30, 2021, the State Board of Education shall review its rules for approving independent schools in specific special education categories and initiate rulemaking to update its rules to simplify and expedite the approval process.

Sec. 9. UPDATES TO STATE BOARD OF EDUCATION RULES

(a) On or before June 30, 2021, the State Board of Education shall initiate rulemaking to update its Rule 2200 series for approved independent schools in order to implement Secs. 20a–21 of 2018 Acts and Resolves No. 173.

(b) The public comment period under the Vermont Administrative Procedures Act, 3 V.S.A. chapter 25, subchapter 3, for State Board of Education Rules Series 1300 and 2360 shall be extended to December 31,

2020, and the time period for adoption of these Rules Series under that Act shall be adjusted accordingly.

Sec. 10. 2018 Acts and Resolves No. 173, Sec. 23 is amended to read:

Sec. 23. EFFECTIVE DATES

\* \* \*

(b) Sec. 5 (16 V.S.A. chapter 101) shall take effect on July 1, ~~2021~~ 2022.

(c) Secs. 20a–21 (approved independent schools) shall take effect on July 1, ~~2022~~ 2023.

\* \* \*

Sec. 11. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1–3 shall take effect on July 1, 2022.

Date Governor signed bill: June 15, 2020