

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred House Bill No. 521
3 entitled “An act relating to amending the special education laws” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. PURPOSE

8 (a) 2018 Acts and Resolves No. 173 made substantial changes to the
9 funding of special education services and directed the Agency of Education to
10 assist supervisory unions in adopting best practices for the delivery of special
11 education services. This act makes certain minor amendments to the special
12 education laws that are proposed by the Agency of Education to clarify some
13 of the changes made in Act 173.

14 (b) This act also amends certain dates in Act 173 to provide an additional
15 year to prepare for the changes in the funding and delivery of special education
16 services required by Act 173.

17 Sec. 2. 2018 Acts and Resolves No. 173, Sec. 2 is amended to read:

18 Sec. 2. GOALS

19 * * *

20 (b)(1) To support the enhanced delivery of these services, the State funding
21 model for special education shall change for all supervisory unions in fiscal

1 year ~~2021~~ 2022, for school year ~~2020-2021~~ 2021-2022, from a reimbursement
2 model to a census-based model, which will provide more flexibility in how the
3 funding can be used, is aligned with the State’s policy priorities of serving
4 students who require additional support across the general and special
5 education service-delivery systems, and will simplify administration.

6 * * *

7 Sec. 3. 16 V.S.A. § 2961 is amended to read:

8 § 2961. CENSUS GRANT

9 (a) As used in this section:

10 * * *

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

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

15 (A) dividing an amount:

16 (i) equal to the average State appropriation for fiscal years ~~2018,~~
17 ~~2019, and 2020~~ 2019, 2020, and 2021 for special education under
18 sections 2961 (standard mainstream block grants), 2963 (special education
19 expenditures reimbursement), and 2963a (exceptional circumstances) of this
20 title; and

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

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

7 * * *

8 (d)(1)(A) For fiscal year ~~2021~~ 2022, the amount of the census grant for a
9 supervisory union shall be:

10 (i) the average amount it received for fiscal years ~~2017, 2018, and~~
11 ~~2019~~ 2018, 2019, and 2020 from the State for special education under sections
12 2961 (standard mainstream block grants), 2963 (special education expenditures
13 reimbursement), and 2963a (exceptional circumstances) of this title;
14 increased by

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

19 (B) The amount determined under subdivision (A) of this subdivision
20 (1) shall be divided by the supervisory union's long-term membership, to

1 determine the base amount of the census grant, which is the amount of the
2 census grant calculated on a per student basis.

3 (2) For fiscal year ~~2025~~ 2026 and subsequent fiscal years, the amount of
4 the census grant for a supervisory union shall be the uniform base amount
5 multiplied by the supervisory union's long-term membership.

6 (3) For fiscal years ~~2022, 2023, and 2024~~ 2023, 2024, and 2025, the
7 amount of the census grant for a supervisory union shall be determined by
8 multiplying the supervisory union's long-term membership by a base amount
9 established under this subdivision. The base amounts for each supervisory
10 union for fiscal years ~~2022, 2023, 2024~~ 2023, 2024, and 2025 shall move
11 gradually the supervisory union's fiscal year ~~2021~~ 2022 base amount to the
12 fiscal year ~~2025~~ 2026 uniform base amount by prorating the change between
13 the supervisory union's fiscal year ~~2021~~ 2022 base amount and the fiscal year
14 ~~2025~~ 2026 uniform base amount over this three-fiscal-year period.

15 Sec. 4. 16 V.S.A. § 2967 is amended to read:

16 § 2967. AID PROJECTION

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

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

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

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

6 (3) ~~costs~~ funds for persons who are deaf or hard of hearing;

7 (4) ~~costs~~ funds for the interdisciplinary team program;

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

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

12 Sec. 5. 16 V.S.A. § 2975 is amended to read:

13 § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL
14 ASSISTANCE

15 The Secretary may use ~~up to two percent of the funds appropriated for~~
16 ~~allowable special education expenditures, as that term is defined in State Board~~
17 ~~of Education rules, to directly assist supervisory unions with special education~~
18 ~~expenditures of an unusual or unexpected nature~~ funds for allowable special
19 education expenditures, as defined in State Board of Education rules, to
20 directly assist supervisory unions with special education expenditures of an
21 unusual or unexpected nature. These funds shall be appropriated in the amount

1 of two percent times the Census Grant as defined in section 2961 of this title.

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

4 **Sec. 6. 2018 Acts and Resolves No. 173, Sec. 12 is amended to read:**

5 **Sec. 12. TRAINING AND TECHNICAL ASSISTANCE ON THE**
6 **DELIVERY OF SPECIAL EDUCATION SERVICES**

7 (a) The Agency of Education shall, for the 2018–2019, 2019–2020, ~~and~~
8 2020–2021, and 2021–2022 school years, assist supervisory unions to expand
9 and improve their delivery of services to students who require additional
10 supports in accordance with the report entitled “Expanding and Strengthening
11 Best-Practice Supports for Students who Struggle” delivered to the Agency of
12 Education in November 2017 from the District Management Group. This
13 assistance shall include the training of teachers and staff and technical
14 assistance with the goal of embedding the following best practices for the
15 delivery of special education services:

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

17 (2) providing additional instructional time outside core subjects to
18 students who require additional support, rather than providing interventions
19 instead of core instruction;

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

1 (4) creating or strengthening a systems-wide approach to supporting
2 positive student behaviors based on expert support; and

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

5 (b) The sum of \$200,000.00 is appropriated from federal funds that are
6 available under the Individuals with Disabilities Education Act for fiscal
7 year 2019 to the Agency of Education, which the Agency shall administer in
8 accordance with this section. The Agency shall include in its budget request to
9 the General Assembly for each of fiscal years 2020 ~~and~~ 2021, and 2022 the
10 amount of \$200,000.00 from federal funds that are available under the
11 Individuals with Disabilities Education Act for administration in accordance
12 with this section.

13 (c) The Agency of Education shall present to the General Assembly on or
14 before December 15 in 2019, 2020, ~~and~~ 2021, and 2022 a report describing
15 what changes supervisory unions have made to expand and improve their
16 delivery of services to students who require additional supports and describing
17 the associated delivery challenges. The Agency shall share each report with all
18 supervisory unions.

1 Sec. 7. 2018 Acts and Resolves No. 173, Sec. 16 is amended to read:

2 Sec. 16. RULEMAKING

3 The Agency of Education shall recommend to the State Board proposed
4 rules that are necessary to implement this act and, on or before November 1,
5 ~~2019~~ 2020, the State Board of Education shall adopt rules that are necessary to
6 implement this act. The State Board and the Agency of Education shall
7 consult with the Census-based Funding Advisory Group established under
8 Sec. 9 of this act in developing the State Board rules. The State Board rules
9 shall include rules that establish processes for reporting, monitoring, and
10 evaluation designed to ensure:

11 (1) the achievement of the goal under this act of enhancing the
12 effectiveness, availability, and equity of services provided to all students who
13 require additional support in Vermont's school districts; and

14 (2) that supervisory unions are complying with the Individuals with
15 Disabilities Education Act, 20 U.S.C. chapter 33.

16 Sec. 8. 2018 Acts and Resolves No. 173, Sec. 17 is amended to read:

17 Sec. 17. TRANSITION

18 (a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a
19 supervisory union to submit a service plan to the Secretary of Education,
20 a supervisory union shall not be required to submit a service plan for fiscal
21 year ~~2021~~ 2022.

1 (b) On or before November 1, ~~2019~~ 2020, a supervisory union shall submit
2 to the Secretary such information as required:

3 (1) by the Secretary to estimate the supervisory union's projected fiscal
4 year ~~2021~~ 2022 extraordinary special education reimbursement under Sec. 5 of
5 this act; and

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

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

10 Sec. 9. 2018 Acts and Resolves No. 173, Sec. 18 is amended to read:

11 Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION

12 COSTS

13 * * *

14 (b) This section is repealed on July 1, ~~2020~~ 2021.

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

16 Sec. 23. EFFECTIVE DATES

17 * * *

18 (b) Sec. 5 (16 V.S.A. chapter 101) shall take effect on July 1, ~~2020~~ 2021.

19 * * *

1 * * * State Advisory Panel on Special Education * * *

2 Sec. 10. 16 V.S.A. § 2945 is amended to read:

3 § 2945. STATE ADVISORY COUNCIL PANEL ON SPECIAL
4 EDUCATION

5 ~~(a) There is created the Advisory Council on Special Education that shall~~
6 ~~consist of 19 members. All members of the Council shall serve for a term of~~
7 ~~three years or until their successors are appointed. Terms shall begin on April 1~~
8 ~~of the year of appointment. A majority of the members shall be either~~
9 ~~individuals with disabilities or parents of children with disabilities.~~

10 ~~(1) Seventeen of the members shall be appointed by the Governor with~~
11 ~~the advice of the Secretary. Among the gubernatorial appointees shall be:~~

12 ~~(A) teachers;~~

13 ~~(B) representatives of State agencies involved in the financing or~~
14 ~~delivery of related services to children with disabilities;~~

15 ~~(C) a representative of independent schools;~~

16 ~~(D) at least one representative of a vocational, community, or~~
17 ~~business organization concerned with the provision of transition services to~~
18 ~~children with disabilities;~~

19 ~~(E) a representative from the State juvenile and adult corrections~~
20 ~~agency;~~

21 ~~(F) individuals with disabilities;~~

1 ~~(G) parents of children with disabilities, provided the child shall be~~
2 ~~younger than 26 years old at the time his or her parent is appointed to the~~
3 ~~Council;~~

4 ~~(H) State and local education officials, including officials who carry~~
5 ~~out activities under the McKinney Vento Homeless Assistance Act;~~

6 ~~(I) a representative of higher education who prepares special~~
7 ~~education and related services personnel;~~

8 ~~(J) a representative from the State child welfare department~~
9 ~~responsible for foster care;~~

10 ~~(K) special education administrators; and~~

11 ~~(L) two at large members.~~

12 ~~(2) In addition, two members of the General Assembly shall be~~
13 ~~appointed, one from the House of Representatives and one from the Senate.~~
14 ~~The Speaker shall appoint the House member and the Committee on~~
15 ~~Committees shall appoint the Senate member.~~

16 ~~(b) The Council shall elect its own chair from among its membership. The~~
17 ~~Council shall meet annually at the call of the Chair, and other meetings may be~~
18 ~~called by the Chair at such times and places as he or she may determine to be~~
19 ~~necessary.~~

20 ~~(e) The members of the Council who are employees of the State shall~~
21 ~~receive no additional compensation for their services, but actual and necessary~~

1 ~~expenses shall be allowed State employees, and shall be charged to their~~
2 ~~departments or institutions. The members of the Council who are not~~
3 ~~employees of the State shall receive a per diem compensation as provided~~
4 ~~under 32 V.S.A. § 1010 for each day of official business and reimbursement~~
5 ~~for actual and necessary expenses at the rate allowed State employees.~~

6 ~~(d) The Council shall:~~

7 ~~(1) assume all responsibilities required of the State advisory panel by~~
8 ~~federal law;~~

9 ~~(2) review periodically the rules, regulations, standards, and guidelines~~
10 ~~pertaining to special education and recommend to the State Board any changes~~
11 ~~it finds necessary;~~

12 ~~(3) comment on any new or revised rules, regulations, standards, and~~
13 ~~guidelines proposed for issuance; and~~

14 ~~(4) advise the State Board in the development of any State plan for~~
15 ~~provision of special education.~~

16 (a) The State Advisory Panel on Special Education (Panel) is created to
17 provide guidance with respect to special education and related services for
18 children with disabilities in the State. Members of the Panel shall be appointed
19 by the Governor, with the advice of the Secretary of Education. The Panel
20 shall perform the duties, and members of the Panel shall be appointed, in
21 accordance with federal law. In addition to members appointed to the Panel to

1 satisfy the requirements under federal law, the members of the Panel shall
2 include a representative of each body designated by the State under federal law
3 as the Parent Training and Information Center and the Protection and
4 Advocacy System.

5 (b) The Panel shall elect an executive committee from among its members.
6 The executive committee shall be composed of seven members of the Panel,
7 one of whom shall be the chair of the Panel. A majority of the members of the
8 executive committee shall be individuals with disabilities or parents of children
9 with disabilities (ages birth through 26 years of age). The executive committee
10 shall call meetings of the Panel and shall direct the work of the Panel.

11 (c) The Panel shall advise both the Agency of Education and the State
12 Board of Education on those matters upon which the Panel is required, under
13 federal law, to advise the State Education Agency.

14 Sec. 11. TRANSITION

15 (a) On or before August 1, 2019, members shall be appointed to the State
16 Advisory Panel on Special Education under 16 V.S.A. § 2945 to ensure that
17 the membership of the Panel complies with federal law, including the
18 appointment of members who fulfill the requirement that a majority of the
19 members be individuals with disabilities or parents of children with
20 disabilities.

