

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; COVID-19; special education changes; delay

4 Statement of purpose of bill as introduced: This bill proposes, due to the  
5 COVID-19 State of Emergency, to delay the changes to special education  
6 funding from a reimbursement model to a census-based model from July 1,  
7 2021 until July 1, 2022, and to delay the requirement that certain approved  
8 independent schools enroll students on an individual education program from  
9 July 1, 2022 until July 1, 2023, as enacted under 2018 Acts and Resolves No.  
10 173.

11 An act relating to delaying special education changes due to the COVID-19  
12 State of Emergency

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

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

15 § 2961. CENSUS GRANT

16 (a) As used in this section:

17 \* \* \*

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

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

5               (A) dividing an amount:

6                   (i) equal to the average State appropriation for fiscal years 2018,  
7 2019, and 2020 for special education under sections 2961 (standard  
8 mainstream block grants), 2963 (special education expenditures  
9 reimbursement), and 2963a (exceptional circumstances) of this title; and

10               (ii) increased by:

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

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

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

20                                   \* \* \*

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

3 (i) the average amount it received for fiscal years ~~2017, 2018, and~~  
4 ~~2019~~ 2018, 2019, and 2020 from the State for special education under sections  
5 2961 (standard mainstream block grants), 2963 (special education expenditures  
6 reimbursement), and 2963a (exceptional circumstances) of this title; increased  
7 by

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

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

16 (2) For fiscal year ~~2025~~ 2027 and subsequent fiscal years, the amount of  
17 the census grant for a supervisory union shall be the uniform base amount  
18 multiplied by the supervisory union's long-term membership.

19 (3) For fiscal years ~~2022, 2023, and 2024~~ 2024, 2025, and 2026, the  
20 amount of the census grant for a supervisory union shall be determined by  
21 multiplying the supervisory union's long-term membership by a base amount

1 established under this subdivision. The base amounts for each supervisory  
2 union for fiscal years ~~2022, 2023, and 2024~~ 2024, 2025, and 2026 shall move  
3 gradually the supervisory union's fiscal year ~~2024~~ 2023 base amount to the  
4 fiscal year ~~2025~~ 2027 uniform base amount by prorating the change between  
5 the supervisory union's fiscal year ~~2024~~ 2023 base amount and the fiscal year  
6 ~~2025~~ 2027 uniform base amount over this three-fiscal-year period.

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

8 § 2967. AID PROJECTION

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

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

14 (1) ~~costs~~ funds eligible for grants and reimbursements under sections  
15 2961 and 2962 of this title;

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

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

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

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

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

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

3 § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL  
4 ASSISTANCE

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

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

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

16 Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

17 \* \* \*

18 (e) Meetings.

19 \* \* \*

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

21 \* \* \*

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

7 (h) Appropriation. The sum of \$5,376.00 is appropriated for fiscal year  
8 2018 from the General Fund to the Agency of Education to provide funding for  
9 per diem compensation and reimbursement under subsection (g) of this section.  
10 The sum of \$9,018.00 is appropriated for fiscal year 2021 from the General  
11 Fund to the Agency of Education to provide funding for per diem  
12 compensation and reimbursement under subsection (g) of this section. The  
13 Agency shall include in its budget request to the General Assembly for each of  
14 fiscal years ~~2020, 2021, and~~ 2022 and 2023 the amount of ~~\$5,376.00~~ 9,018.00  
15 to provide funding for per diem compensation and reimbursement under  
16 subsection (g) of this section.

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

18 Sec. 16. RULEMAKING

19 The Agency of Education shall recommend to the State Board proposed  
20 rules that are necessary to implement Secs. 3-5 of this act and, on or before  
21 August 1, ~~2020~~ 2021, the State Board of Education shall initiate rules that are

1 necessary to implement Secs. 3-5 of this act. The State Board and the Agency  
2 of Education shall consult with the Census-based Funding Advisory Group  
3 established under Sec. 9 of this act in developing the State Board rules. The  
4 State Board rules shall include rules that establish processes for reporting,  
5 monitoring, and evaluation designed to ensure:

6 \* \* \*

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

8 Sec. 17. TRANSITION

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

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

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

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

19 \* \* \*

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

1           Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION  
2                           COSTS

3   \* \* \*

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

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

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

8   \* \* \*

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

13       Sec. 9. UPDATES TO STATE BOARD OF EDUCATION RULES

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

17           (b) The public comment period under the Vermont Administrative  
18       Procedures Act, 3 V.S.A. chapter 25, subchapter 3, for State Board of  
19       Education Rules Series 1300 and 2360 shall be extended to December 31,  
20       2020, and the time period for adoption of these Rules Series under that Act  
21       shall be adjusted accordingly.



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

2 Sec. 23. EFFECTIVE DATES

3 \* \* \*

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

5 (c) Secs. 20a-21 (approved independent schools) shall take effect on July 1,  
6 ~~2022~~ 2023.

7 \* \* \*

8 Sec. 11. EFFECTIVE DATES

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