

H.859

An act relating to special education

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

* * * Payment of Special Education Funding to Supervisory Unions * * *

Sec. 1. 16 V.S.A. chapter 101 is amended to read:

CHAPTER 101. SPECIAL EDUCATION

Subchapter 1. General Provisions

* * *

§ 2948. STATE AID

(a) For the payment of general State aid, children with disabilities shall be counted in the same manner as children who do not have disabilities.

(b) [Repealed.]

(c) Each ~~school district~~ supervisory union shall receive an essential early education grant each school year. Grants shall be distributed according to the estimated number of children from three through five years of age. The State Board by rule shall encourage coordination of services and may set other terms of the grant. Each ~~district~~ supervisory union shall be responsible for the remainder of the costs of providing necessary services under section 2956 of this title. Annually, for each following fiscal year, the essential early education grant shall be increased by the most recent cumulative price index, as of November 15, for State and local government purchases of goods and services

from fiscal year 2002 through that following fiscal year, as provided through the State's participation in the New England Economic Project.

(d), (e) [Repealed.]

(f) If a student is being provided education or special education or both in a school operated by the Department of Corrections, the Department of Corrections shall serve the student as if the Department were the school district of residence of the student.

(g) Notwithstanding any law to the contrary, a child with a disability who is residing in a State school, hospital, or community residential facility or in a State-approved private residential facility shall be provided special education in accordance with this chapter by the ~~school district~~ supervisory union in which the facility is located; provided, however, that this special education may be directly provided by the facility in which the child resides when the child's individualized education program and treatment plans indicate that the facility is the most appropriate educational placement for the child. Programs of special education provided by a facility described in this subsection shall be subject to the approval of the Secretary.

(h)-(j) [Repealed.]

(k) For the costs of students in the custody of the Department of Corrections, the Secretary of Education shall pay for the costs of special education in accordance with the provisions of 28 V.S.A. § 120.

(l) [Repealed.]

(m) All other State aid to ~~school districts and~~ supervisory unions shall be set forth in subchapter 2 of this chapter.

(n) If a student is being provided education or special education, or both in a school operated by the Department for Children and Families, the funding and provision of services shall be the responsibility of the Department for Children and Families and special education procedural responsibility shall be the responsibility of the supervisory union for the school district of residence of the student's parent, parents, or guardian.

§ 2949. RECIPROCAL AGREEMENTS WITH OTHER STATES

* * *

§ 2950. STATE-PLACED STUDENTS

(a) ~~School district~~ Supervisory Union reimbursement. The supervisory union in which there is a school district responsible for educating a State-placed student under section 1075 of this title may claim and the Secretary shall reimburse 100 percent of all special education costs for the student, including costs for mainstream services. As a condition of receiving this reimbursement, the ~~district~~ supervisory union shall provide documentation in support of its claim, sufficient to enable the Secretary to determine whether to recommend appropriate cost-saving alternatives. The Secretary may approve any costs incurred in educating a State-placed student who is not

eligible for special education that are incurred due to the special needs of the student, and, if approved, the Secretary shall pay those costs. When a State agency places and registers a student in a new district, the district and the supervisory union of which it is a member may request and the Agency of Education, or the agency that placed the student, or both, shall provide prompt consultative and technical assistance to the receiving district and the supervisory union.

* * *

§ 2957. SPECIAL EDUCATION ADMINISTRATIVE AND JUDICIAL
APPEALS; LIMITATIONS

* * *

(e) Except as provided in 20 U.S.C. § 1412(a)(10)(C) or unless a court or hearing officer determines otherwise, where a unilateral placement has been made without offering the supervisory union for the school district of residence ~~being offered~~ a reasonable opportunity to evaluate the child and to develop an individualized education program, reimbursement may not be sought for any costs incurred before the ~~school district~~ supervisory union is offered such an opportunity.

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL
PLACEMENTS

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

(b) The Secretary may establish from within the Agency a Residential Placement Review Team. At the discretion of the Secretary, other persons not employed by the Agency may be appointed to serve on the Team. The Team shall make every effort to assist ~~school districts~~ supervisory unions and parents in understanding the range of educational options available as early as possible in the planning process for the child. The Team shall:

(1) advise ~~school districts~~ supervisory unions on alternatives to residential placement;

(2) review each individualized education program calling for residential placement of a student to consider whether the student can be educated in a less restrictive environment;

(3) assist ~~school districts~~ supervisory unions in locating cost-effective and appropriate residential facilities where necessary;

(4) request a new individualized education program where it believes that appropriate alternatives to residential placement are available; and

(5) offer mediation as a means of resolving disputes relating to the need for residential placement or the particular residential facility recommended for a child with a disability.

(c) The State Board shall by rule establish policies and procedures for the operations of the Residential Placement Review Team. The rules shall be consistent with federal law and, at minimum, shall include the following:

(1) provision for the Secretary to initiate a due process proceeding to challenge the need for residential placement where the team believes that a less restrictive educational placement is both available and appropriate for the child with a disability, and to reimburse the ~~school district~~ supervisory union and the parents or guardian of the child for reasonable costs and attorney's fees in the event the Secretary does not prevail;

(2) provision for technical assistance, a plan for correction, or withholding of funds under this section where a ~~school district~~ supervisory union places a child in a residential facility more expensive than an available and appropriate alternative residential facility; however, such withholding of funds shall not exceed the difference between the cost of the two facilities and the rule shall provide an opportunity for appeal of the withholding; and

(3) procedures and timelines to ensure that residential placement of a child with disabilities is not delayed or disrupted so as to adversely affect the child.

(d) Whenever a residential placement is determined to be necessary and appropriate for a child with a disability, the Residential Placement Review Team shall include in the child's individualized education program goals and objectives designed to reintegrate the child into a local school district.

(e) Costs for residential placement shall be reimbursed under subchapter 2 of this chapter only if the residential facility is approved by the State Board for the purposes of providing special education and related services to children with disabilities.

§ 2959. RULEMAKING; MEDIATION

(a) The State Board shall adopt rules governing the determination of a child's eligibility for special education, accounting and financial reporting standards, program requirements, procedural requirements, and the identification of the ~~district~~ supervisory union or agency responsible for each child with a disability.

(b) Subject to rules established by the State Board, the Secretary shall offer mediation to parents, children with disabilities, and districts, supervisory unions, and agencies involved in special education disputes.

§ 2959a. EDUCATION MEDICAID RECEIPTS

(a) It is the intent of the General Assembly that the State of Vermont shall maximize its receipt of federal Medicaid dollars available for reimbursement

of medically related services provided to students who are Medicaid eligible.

It is further the intent that:

(1) each supervisory union identify special education and other students eligible for Medicaid reimbursement and, to the extent possible, submit Medicaid bills for services reimbursement;

(2) the Agencies of Education and of Human Services work with local school districts to maximize reimbursements, including services to non-IEP students.

(b) A Medicaid Reimbursement Special Fund is established within the Agency of Education. Funds received by the State under this section shall be transferred to the Medicaid Reimbursement Special Fund. The Fund receipts shall be allocated in accordance with this section.

(c) At least annually, the Secretary of Education shall pay to each supervisory union submitting Medicaid bills under this section, 50 percent of the reimbursed funds generated by the supervisory union's bill, excluding claims generated by State-placed students. Unless the supervisory union has agreed to use the funds to operate a supervisory unionwide program or to distribute the funds in a different manner, upon receipt, the supervisory union shall distribute the funds to its member school districts based on how the funds were generated. The Secretary may withhold payment due a ~~school district~~ supervisory union pursuant to section 2950 of this title for a Medicaid-eligible

State-placed student if the ~~school district~~ supervisory union has not submitted a Medicaid claim for reimbursable services for that student.

(d) If the amount of Medicaid reimbursement funds received for services provided in the prior State fiscal year exceeds \$25,000,000.00, in addition to the 50 percent of the funds paid to supervisory unions submitting Medicaid bills, 25 percent of the amounts in excess of the \$25,000,000.00 shall be paid into an incentive fund created in the Agency of Education. These funds shall be used for an incentive payment to supervisory unions with student participation rates of over 80 percent in accordance with a formula to be developed by the Agency, in consultation with the Vermont Superintendents Association. For any incentive payments made subsequent to fiscal year 2007, the \$25,000,000.00 threshold of this subsection shall be increased by the percentage increase of the most recent New England Economic Project Cumulative Price Index, as of November 15, for state and local government purchases of goods and services from fiscal year 2005 through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent.

(e) ~~School districts~~ Supervisory unions shall use funds received under this section to pay for reasonable costs of administering the Medicaid claims process, and school districts or supervisory unions shall use funds received under this section for prevention and intervention programs in prekindergarten

through grade 12. The programs shall be designed to facilitate early identification of and intervention with children with disabilities and to ensure all students achieve rigorous and challenging standards approved and adopted by the State Board or locally adopted standards. A ~~school district~~ supervisory union shall provide annual written justification to the Secretary of Education of ~~the use of~~ how it or its member districts used the funds. Such annual submission shall show how the funds' use is expressly linked to those provisions of the ~~school district's~~ supervisory union's action plan that directly relate to improving student performance. A ~~school district~~ supervisory union shall include in its annual report the amount of the prior year's Medicaid reimbursement revenues and the use of Medicaid funds consistent with the purposes set forth in this subsection.

(f) Up to 30 percent of Medicaid reimbursements received under this section shall be available for administrative costs of the Agencies of Education and of Human Services related to the collection, processing, and reporting of education Medicaid reimbursements and statewide programs. The Secretaries of Education and of Human Services shall expend monies from the Fund only as appropriated by the General Assembly.

(g) Remaining reimbursed funds shall be deposited into the Education Fund.

* * *

Subchapter 2. Aid for Special Education and Support Services

§ 2961. STANDARD MAINSTREAM BLOCK GRANTS

(a) Each ~~town school district, city school district, union school district, unified union school district, incorporated school district, and the member school districts of an interstate school district~~ supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union's mainstream salary standard multiplied by 60 percent.

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

(c) As used in this section:

(1) "Mainstream salary standard" means:

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

(B) ~~its share, prorated according to average daily membership among the member districts of the supervisory union,~~ of an amount equal to the average special education administrator salary in the State for the preceding

year, plus, for any supervisory union ~~or supervisory district~~ with member districts which have in the aggregate more than 1,500 average daily membership, ~~the school district's prorated share of~~ a fraction of an additional full-time equivalent salary for a special education administrator, the numerator of which is the aggregate average daily membership ~~in~~ of the supervisory ~~union or supervisory district~~ union's member districts minus 1,500, and the denominator of which is the aggregate average daily membership of member districts in the largest supervisory union ~~or supervisory district~~ in the State minus 1,500.

(2) "Full-time equivalent staffing" means 9.75 special education teaching positions per 1,000 average daily membership.

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

§ 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

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

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

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

(d) [Repealed.]

§ 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

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

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

* * *

§ 2963a. EXCEPTIONAL CIRCUMSTANCES

(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a school district or supervisory union for 80 percent of the ~~following expenditures:~~

~~(1) Costs~~ costs not eligible for reimbursement under section 2962 of this title for each student causing the school district or supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a school district or supervisory union to be eligible for reimbursement under this section, the total costs of the school district or supervisory union eligible for extraordinary services reimbursement must

equal or exceed 15 percent of the total costs eligible for ~~state~~ State assistance under sections 2961, 2962, and 2963 of this title.

~~(2) The costs incurred by the school district in placing and maintaining a student in a program operated by the Vermont Center for the Deaf and Hard of Hearing.~~

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

§ 2964. SERVICE PLAN

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

(b) If a supervisory union fails to file a service plan by October 15, the Secretary may withhold any funds due the supervisory ~~district or school districts~~ union and its member districts under this title until a service plan is filed and accepted by the Secretary as properly completed.

§ 2965. WITHHOLDING OF AID

If a ~~district~~ supervisory union, school district, or agency fails to meet its legally established obligations toward a child with a disability or the child's parent, and as a result the Agency of Education incurs costs to meet these obligations beyond those otherwise incurred under this chapter, the Secretary shall withhold the amount of funds incurred from any grants due the ~~district~~ supervisory union, school district, or agency under this subchapter.

§ 2967. AID PROJECTION; STATE SHARE

(a) On or before December 15, the Secretary shall publish an estimate, by ~~town school district, city school district, union school district, unified union school district, incorporated school district, and the member school districts of an interstate school district~~ supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in the ensuing school year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

* * *

§ 2968. REPORTS

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

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

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

(d) Special education receipts and expenditures shall be included within the audits required of ~~supervisory unions and school districts~~ a supervisory union and its member districts that have incurred reimbursable expenditures under this chapter pursuant to ~~sections~~ section 323 ~~and 563(17)~~ of this title.

§ 2969. PAYMENTS

(a) On or before August 15, December 15, and April 15 of each school year, the State Treasurer shall withdraw from the Education Fund, based on warrant of the Commissioner of Finance and Management, and shall forward to each ~~school district~~ supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, the amount of State assistance estimated in accordance with State Board rules to be necessary to fund sections 2961 through 2963a of this title in the current fiscal period. The State Board shall by rule ensure that the amount of such assistance shall be adjusted to compensate for any overpayments or underpayments determined, after review and acceptance of the reports submitted under section 2968 of this title, to have been made in previous periods. Notwithstanding this subsection,

failure to submit the reports within the timelines established by subsection 2968(a) of this title shall result in the withholding of any payments until the report is filed.

(b) ~~{Deleted.}~~ [Repealed.]

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

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

(e) School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in their school systems and give assurances that at least 50 percent of the costs of training, including in-kind costs, will be assumed by the applicant. The Secretary shall establish written procedures and criteria for the award of such

funds. In addition, the Secretary may identify schools most in need of training assistance and may pay for 100 percent of the assistance ~~provided to the~~ supervisory union or school district for these schools to fund the provision of training assistance for these schools.

§§ 2970, 2971. [RESERVED FOR FUTURE USE.].

* * *

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

(1) special education expenditures by ~~school districts~~ supervisory unions;

(2) the rate of growth or decrease in special education costs, including the identity of ~~high high- and low spending districts~~ low-spending supervisory unions;

(3) results for special education students;

(4) the availability of special education staff;

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

(6) the status of the education support systems in ~~school districts~~ supervisory unions; and

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

(A) the percentage of the total average daily membership represented by special education students statewide and by ~~school-district~~ supervisory union;

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

(C) the percentage of special education students ~~by in-district placement,~~ served by public schools within the supervisory union, by day placement, and by residential placement.

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

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

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

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

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

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

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

(7) any other factors affecting its spending.

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

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

(e) The Secretary and Agency staff shall assist the ~~high spending districts~~ high-spending supervisory unions, that have been identified in subsection (a) of this section and have not presented an explanation for their spending that is

satisfactory to the Secretary, to identify reasonable alternatives and to develop a remediation plan. Development of the remediation plan shall include an on-site review. The ~~district~~ supervisory union shall have two years to make progress on the remediation plan. At the conclusion of the two years or earlier, the ~~district~~ supervisory union shall report its progress on the remediation plan.

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

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

(2) If the district fails to make satisfactory progress after the first year of withholding, 10 percent shall be withheld in each subsequent year pending satisfactory compliance with the plan; provided, however, before funds are withheld in any year under this subdivision (f)(2), the ~~district~~ supervisory union shall explain to the State Board either the reasons the ~~district~~ supervisory union believes it made satisfactory progress on the remediation plan or the reasons it failed to do so. The State Board's decision whether to withhold funds under this subdivision shall be final.

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

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

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

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL
ASSISTANCE

The Secretary may use up to two percent of the funds appropriated for special education expenditures, as that term is defined in subsection 2967(b) of

this title, to directly assist ~~school districts~~ supervisory unions with special education expenditures of an unusual or unexpected nature. These funds shall not be used for exceptional circumstances that are funded under section 2963a of this title. The Secretary's decision regarding a ~~district's~~ supervisory union's eligibility for and amount of assistance shall be final.

Sec. 2. 16 V.S.A. § 4002 is amended to read:

§ 4002. PAYMENT; ALLOCATION

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

* * *

* * * Study of Funding for Special Education * * *

Sec. 3. STUDY OF FUNDING FOR SPECIAL EDUCATION

(a) Study. The Agency of Education shall contract for a study of special education funding and practice. The study shall evaluate the feasibility of implementing various models of funding for special education in Vermont, including a census block model of funding and variations of this model, as the contractor deems appropriate, including the advantages, disadvantages, and

policy considerations. The study shall develop a special education funding model recommendation for Vermont, which shall be designed to provide incentives for desirable practices and stimulate innovation in the delivery of services and shall take into account any factors the contractor determines relevant. The contractor shall conduct its evaluation and develop its recommendation in collaboration with the Agency of Education and, as directed by the Agency of Education, with interested superintendents, special education administrators, school business and administrative staff, and special education staff from the institutions of higher education and other stakeholders, including parents and family-based organizations. The contractor shall present its findings and recommendations to the General Assembly and the Agency of Education by December 15, 2017.

(b) Funding. The Agency of Education shall allocate out of its fiscal year 2017 budget a sum of up to \$90,000.00 to provide funding for the purposes set forth in this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this section.

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

Sec. 4. CONSULTING SERVICES ON THE DELIVERY OF SPECIAL
EDUCATION SERVICES

(a) Consulting services contact. The Agency of Education shall contract with a consulting firm meeting the criteria set forth in subsection (c) of this section for the provision of special education consulting services to up to 10 supervisory unions, supervisory districts, or unified union school districts. The Agency, in consultation with the consulting firm and interested districts and supervisory unions, shall select, as member districts and supervisory unions for the study, at least three existing supervisory unions or supervisory districts with an average daily membership of 1,500 students or more and at least three unified union school districts formed pursuant to 2015 Acts and Resolves No. 46. Selected districts and supervisory unions shall provide an equivalent match equal to 50 percent of the cost of the consulting firm's services, with the other 50 percent being funded by the appropriation provided in this section; provided, however, that to the extent the Agency is able to allocate additional funding, it can decrease the funded percentage for districts or supervisory unions that the Secretary deems in need of additional funding. The financial contribution by districts or supervisory unions may be from transition grants or other appropriate grant funding and may, at the discretion

of the district's or supervisory union's board of directors, be allocated across the district's or supervisory union's 2017 and 2018 fiscal years.

(b) Nature of consulting services and reporting.

(1) For each of the selected districts and supervisory unions, the consulting firm shall review current practices for the delivery of special education services against research-informed practices, and shall make recommendations to inform improved delivery of special education services in an efficient and cost-effective manner.

(2) The consulting firm shall present a final report with recommendations on the delivery of special education services to the selected school districts, the General Assembly, and the Agency of Education on or before October 1, 2017. The Agency shall share this final report with all districts and supervisory unions. This report shall, on a statewide basis based on the consultant's experience with the selected districts and supervisory unions, identify current practices for the delivery of special education services against research-informed practices, and shall make recommendations to inform improved delivery of special education services in an efficient and cost-effective manner. The report shall identify patterns and differences in special education delivery practices across the State. The consulting firm shall provide to the Agency of Education any and all research and data compiled during the course of its work pursuant to this section.

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

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

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

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

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

(d) Appropriation. Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of \$75,000.00 is appropriated from the Education Fund for fiscal year 2017 to the Agency of Education, which the Agency shall administer in accordance with this section, and any unused funds shall revert to the Education Fund. In addition, to the extent that there is a reversion from fiscal year 2016 to fiscal year 2017 of unused special education funds in the

Agency's budget, the Agency may use up to \$100,000.00 of these funds, if available, to administer in accordance with this section.

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

Secs. 3, 4, and this section shall take effect on July 1, 2016. Secs. 1 and 2 shall take effect on July 1, 2017.