

February 23, 2018

**Special Education Funding Bill  
H.897**

**Section by Section Summary**

**Sec. 1. Findings**

- Summarizes findings from Delivery of Services Report (DMG) and Funding Report (UVM)
- The General Assembly finds that:
  - students who require additional support would be better served if supervisory unions adopted the best practices recommended in the Delivery of Services Report;
  - the State's current reimbursement model of funding special education serves as an impediment to adopting these best practices, largely due to the constraint on the use of funds and the misalignment with the policy priorities of serving students who require additional support across the general and special education service-delivery systems; and
  - the census-based model of funding for students who require additional support would enable supervisory unions to adopt the best practices recommended in the Delivery of Services Report, largely due to the flexibility in how the funds could be used by supervisory unions and the alignment with the policy priorities
- The General Assembly recognizes that changing the models for delivery of services and funding for students who require additional support is a significant change for school systems and their constituencies, and that they will require time and assistance in making necessary adjustments
- Effective on passage

**Sec. 2. Goals**

- To enhance the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts, including students receiving special education services and students who need additional support but do not receive special education services
- To support the enhanced delivery of these services, the State funding model for special education shall change for all supervisory unions in fiscal year 2021, for school year 2020-2021, from a reimbursement model to a census-based model,

which will provide more flexibility in how the funding can be used, is aligned with the State's policy priorities of serving students who require additional support across the general and special education service-delivery systems, and will simplify administration

- To provide additional staff and resources to the Agency of Education to support its work with supervisory unions and schools that are transitioning to the best practices recommended in the Delivery of Services Report
- Effective on passage

### **Sec. 3. Census-based Funding Early Implementation Program**

- Creates the Census-based Funding Early Implementation Program
- Participating supervisory unions are those that either participated in the Delivery of Services Report or otherwise worked with the District Management Group to improve delivery of special education services and that elect to participate
- Participating supervisory unions will implement census-based funding for the 2019-2020 school year
- Participating supervisory unions will receive an educational support grant of:
  - the average amount it received for fiscal years 2016, 2017, and 2018 from the State for special education under 16 V.S.A. §§ 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances); increased by an inflation factor
- The educational support grant amount is divided by the participating supervisory union's long-term membership (three-year average ADM) to determine the base amount of the educational support grant, which is the amount of the educational support grant calculated on a per student basis
- If a participating supervisory union has extraordinary special education expenditures, defined as expenditures that exceed \$60,000.00 for a student in fiscal year 2020, it shall be eligible for extraordinary special education reimbursement, calculated as follows:
  - an amount equal to its special education expenditures in that fiscal year for that child that exceed \$60,000.00 (excess expenditures) multiplied by 95 percent; plus
  - an amount equal to the lesser of:
    - the amount of its excess expenditures; or
    - an amount equal to:

- \$60,000.00, minus
  - the base amount of the educational support grant received by the supervisory union, multiplied by
  - 60 percent
- Subsections (f) through (k) waive or modify provisions of the existing reimbursement funding system to accommodate the census-based funding system for participating supervisory unions
  - Subsection (l) requires the participating supervisory unions to assist the Census-based Funding Advisory Group created under Sec. 9 of the act and the State Board of Education in the development of the State Board's proposed rules to implement the act
  - Subsection (m) empowers the Secretary of Education to apply, waive, or modify the application of State Board of Education rules for participating supervisory unions in a manner that is consistent with this section
  - Effective on passage

#### **Sec. 4. Census-based Funding Model; Amendment of Special Education Laws**

- Requires that all supervisory unions implement census-based funding for the 2020-2021 school year
- Rewrites the Special Education chapter of Title 16 to eliminate the reimbursement funding system and replace it with the census-based funding system

#### § 2941. POLICY AND PURPOSE

- Eliminates the policy of the State to pay 60 percent of the statewide costs expended by public education for children with disabilities

#### § 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ EDUCATIONAL SUPPORT GRANT

- Eliminates the existing mainstream block grant (advance) that is based on ADM and special education teachers' salaries
- Commits the State to satisfying its special education maintenance of fiscal support requirement under federal law
- Creates a new educational support grant:
  - For fiscal year 2021, the amount of the educational support grant for a supervisory union shall be the average amount it received for fiscal years 2017, 2018, and 2019 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education

expenditures reimbursement), and 2963a (exceptional circumstances) of Title 16; increased by an inflation factor

- The educational support grant amount shall be divided by the supervisory union's long-term membership (three-year average ADM) to determine the base amount of the educational support grant, which is the amount of the educational support grant calculated on a per student basis
- The State Board of Education shall establish by rule a uniform base amount of the educational support grant that shall apply to all supervisory unions for fiscal year 2025. In determining the uniform base amount, the State Board of Education shall:
  - assume total State funding of educational support grants, including any educational support grant adjustments, in an amount that satisfies but does not exceed the amount necessary for the State to satisfy its special education maintenance of fiscal support requirement under federal law; and
  - take into account:
    - the statewide average daily membership for students in prekindergarten through grade 12;
    - the various fiscal year 2021 base amounts of the supervisory unions; and
    - such other factors as the Board determines relevant
- 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
- For fiscal years 2022, 2023, and 2024, the amount of the educational support 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
- For fiscal year 2021 and subsequent fiscal years, the amount of the educational support grant shall be increased by the educational support grant adjustment, as determined by State Board rules, for supervisory unions that qualify for the adjustment

§ 2962. ~~EXTRAORDINARY SERVICES~~ SPECIAL EDUCATION REIMBURSEMENT

- Eliminates the existing extraordinary services reimbursement under which supervisory unions are reimbursed 90 percent of their expenditures that exceed \$50,000.00 per child
- If a participating supervisory union has extraordinary special education expenditures, defined as expenditures that exceed \$60,000.00, with an inflator, for a student in a fiscal year, it shall be eligible for extraordinary special education reimbursement, calculated as follows:
  - an amount equal to its special education expenditures in that fiscal year for that child that exceed \$60,000.00, as inflated (excess expenditures), multiplied by 95 percent; plus
  - an amount equal to the lesser of:
    - the amount of its excess expenditures; or
    - an amount equal to:
      - \$60,000.00, as inflated, minus
      - the base amount of the educational support grant received by the supervisory union, multiplied by
      - 60 percent.

§ 2963. ~~SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT~~

- Eliminates the existing special education expenditures reimbursement under which supervisory unions are reimbursed a percentage of their special education expenditures at a percentage that is calculated to achieve the State's 60 percent share

§ 2963a. ~~EXCEPTIONAL CIRCUMSTANCES~~

- Eliminates the existing exceptional circumstances reimbursement under which a supervisory union may elect to forgo its special education expenditures reimbursement under current section 2963 and instead receive reimbursement for 80 percent of its costs not eligible for extraordinary services reimbursement under current section 2962. In order to be eligible for this election, the total costs of the supervisory union eligible for extraordinary services reimbursement under current section 2962 must equal or exceed 15 percent of the total costs eligible for State assistance under current sections 2961 (standard mainstream block grant (advance)), 2962 (extraordinary services reimbursement), and 2963 (special education services reimbursement)

§ 2964. ~~SERVICE PLAN~~

- Eliminates the requirement for supervisory unions to file an annual service plan with the Secretary showing anticipated special education expenditures for the following school year because this service plan is based on the current reimbursement system

§ 2967. ~~AID PROJECTION; STATE SHARE~~

- Eliminates the requirement for the Secretary to publish estimated projections of reimbursable special education expenditures based on the current reimbursement system
- Eliminates the State's obligation to pay 60 percent of the statewide total special education expenditures

§ 2968. ~~REPORTS~~

- Eliminates reporting that is based on the current reimbursement system

§ 2969. PAYMENTS

- Changes State payment provisions to accommodate census-based and extraordinary special education reimbursement funding system

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

- Changes the content of the annual report provided by the Secretary to the State Board to accommodate the census and extraordinary special education reimbursement system, and eliminates reporting on high and low spending districts because it is no longer relevant with the census-based funding system

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

- Eliminates reference to the exceptional circumstances provision in current section 2963a because that section is eliminated

Effective on July 1, 2020

**Secs. 5 through 8. Technical and Conforming Changes**

- Changes references from “school district” to “supervisory union” in various sections of Title 16 to reflect the responsibility of supervisory unions for special education
- Effective on passage

**Sec. 9. Census-based Funding Advisory Group**

- Creates the Census-based Funding Advisory Group composed of 17 members
- The Advisory Group shall:
  - advise the State Board of Education on the development of proposed rules to implement the act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;
  - advise the Agency of Education and supervisory unions on the implementation of the act; and

- recommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of the act
- The Advisory Group shall report to the General Assembly on or before:
  - January 15, 2019 with its findings and recommendations on the development of proposed rules to implement the act and any recommendations for any amendments to legislation; and
  - January 15, 2020 with a status of implementation under the act and any recommendations for any amendments to legislation
- The Advisory Group shall cease to exist on June 30, 2020
- Provides \$6,400.00 in funding from the Education Fund
- Effective on passage

#### **Secs. 10-11. Education Weighting Report**

- Repeals the requirement for the Agency of Education to perform a study of weighted long-term membership under Sec. 35 of 2017 Acts and Resolves No. 49
- Reinstates the same study requirement, except:
  - Adds requirement that the Agency consider the criteria to be applied by the State Board of Education in its rulemaking process for increasing the amount of educational support grants paid by the State to supervisory unions in order to provide additional financial support to supervisory unions with relatively high costs due to the number of students who require additional support or the nature of the services required
  - In addition to considering and making recommendations on the criteria used for determining weighted long-term membership of a school district, the Agency of Education shall (Act 49 said “may”) consider and make recommendations on other methods that would further the quality and equity of educational outcomes for students
  - Provides \$300,000.00 in funding from the Education Fund and requires the Agency of Education to contract with a contractor with expertise in Vermont’s education funding system to assist the Agency in producing the study
- Effective on passage

**Sec. 12. Consulting Services on the Delivery of Special Education Services**

- Requires the Agency of Education to contract with a consulting firm for the provision of special education consulting services to supervisory unions. The term of the contract shall cover the 2018-2019, 2019-2020, and 2020-2021 school years and shall begin on July 1, 2018 and end on June 30, 2021. The consulting firm shall work with supervisory unions that, during each school year covered by the contract, are or are anticipating adjusting to the changes in special education funding as provided under this act
- Provides \$200,000.00 in funding from the Education Fund for each of fiscal years 2019, 2020, and 2021
- Effective on passage

**Sec. 13. Agency of Education; Staffing**

- Creates the following positions in the Agency of Education: one full-time, exempt legal counsel specializing in special education law and two full-time, classified positions specializing in special education programming. There is appropriated to the Agency of Education from the General Fund for fiscal year 2019 the amount of \$325,000.00 for salaries, benefits, and operating expenses
- Effective on passage

**Secs. 14-15. Extraordinary Services Reimbursement**

- Changes the extraordinary services reimbursement threshold from \$50,000.00 to \$60,000.00 and the reimbursement rate from 90 percent to 95 percent for supervisory unions on the reimbursement funding system for FY 2020
- Sec. 15 makes a conforming change
- Effective on July 1, 2019

**Sec. 16. Rulemaking**

- Requires the State Board of Education to adopt such rules as are necessary to implement the act
- Requires the State Board and the Agency of Education to consult with the Census-based Funding Advisory Group established under Sec. 9 of the act in developing the State Board rules, and the State Board to take into consideration the weighting study report required under Sec. 11 of the act

- Effective on passage

### **Sec. 17. Transition**

- Eliminates requirement for supervisory unions to submit a service plan to the Secretary for fiscal year 2021 because that information would no longer be relevant (concerning expected reimbursement under current system)
- Requires supervisory unions to submit to the Secretary such information as required by the Secretary to estimate extraordinary special education reimbursement under the census-based funding model for fiscal year 2021
- Requires the Agency of Education to assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.
- Effective on July 1, 2020

### **Sec. 18. Allowable Special Education Costs**

- Effectively modifies State Board of Education Rules to create more flexibility in the delivery of special education services for supervisory unions on the current reimbursement funding system
- On page 46, line 18, changes the reference in State Board rules from “a majority” to “25 percent”
- On page 47, line 1, changes the reference in State Board rules from “staff member’s” to “staff members”
- These changes enhance the ability of special education students to be educated in general education classrooms
- Effective on passage

### **Sec. 19. Effective Dates**

- The following sections shall take effect on July 1, 2020:
  - Sec. 4 (amendment to 16 V.S.A. chapter 101)
  - Sec. 17 (transition)
- The following sections shall take effect on July 1, 2019:
  - Sec. 14 (extraordinary services reimbursement)
  - Sec. 15 (amendment to 16 V.S.A. § 4001)

- Sec. 19 and the remaining sections shall take effect on passage