

1 H.897

2 Introduced by Committee on Education

3 Date:

4 Subject: Education; school districts; comprehensive system of educational  
5 services; delivery and funding of services for students who require  
6 additional support

7 Statement of purpose of bill as introduced: This bill proposes to enhance the  
8 effectiveness, availability, and equity of services provided to all students who  
9 require additional support in Vermont's school districts, including students  
10 receiving special education services and students who need additional support  
11 but do not receive special education services. To support the delivery of these  
12 services, this bill also would change the funding model for special education  
13 from a reimbursement model to a census-based model, which provides more  
14 flexibility in how funding can be used, is aligned with the State's policy  
15 priorities of serving students who require additional support across the general  
16 and special education service-delivery systems, and simplifies administration.

17 An act relating to enhancing the effectiveness, availability, and equity of  
18 services provided to students who require additional support

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

2 \* \* \* Findings \* \* \*

3 Sec. 1. FINDINGS

4 (a) In 2016 Acts and Resolves No. 148, the General Assembly directed the  
5 Agency of Education to contract with a consulting firm to review current  
6 practices and recommend best practices for the delivery of special education  
7 services in school districts. The Agency of Education contracted with the  
8 District Management Group, which issued in November 2017 its report entitled  
9 “Expanding and Strengthening Best-Practice Supports for Students who  
10 Struggle” (Delivery of Services Report).

11 (b) In Act 148, the General Assembly also directed the Agency of  
12 Education to contract for a study of special education funding and practice and  
13 to recommend a funding model for Vermont designed to provide incentives for  
14 desirable practices and stimulate innovation in the delivery of services. The  
15 General Assembly required that the study consider a census-based model of  
16 funding. The Agency of Education contracted with the University of Vermont,  
17 and the report of its Department of Education and Social Services entitled  
18 “Study of Vermont State Funding for Special Education” was issued in  
19 December 2017 (Funding Report).

20 (c) The Delivery of Services Report made the following five  
21 recommendations on best practices for the delivery of special education  
22 services:

1           (1) ensure core instruction meets most needs of most students;

2           (2) provide additional instructional time outside core subjects to students  
3 who struggle, rather than providing interventions instead of core instruction;

4           (3) ensure students who struggle receive all instruction from highly  
5 skilled teachers;

6           (4) create or strengthen a systems-wide approach to supporting positive  
7 student behaviors based on expert support; and

8           (5) provide specialized instruction from skilled and trained experts to  
9 students with more intensive needs.

10          (d) The Funding Report noted, based on feedback from various  
11 stakeholders, including educators, school leaders, State officials, parents, and  
12 others, that Vermont's existing reimbursement model of funding special  
13 education has a number of limitations in that it:

14           (1) is administratively costly for the State and localities;

15           (2) is misaligned with policy priorities, particularly with regard to the  
16 delivery of a multitiered system of supports and positive behavioral  
17 interventions and supports;

18           (3) creates misplaced incentives for student identification,  
19 categorization, and placement;

20           (4) discourages cost containment; and

21           (5) is unpredictable and lacks transparency.

1       (e) The Funding Report assessed various funding models that support  
2       students who require additional support, including a census-based funding  
3       model. A census-based model would award funding to supervisory unions  
4       based on the number of students within the supervisory union and could be  
5       used by the supervisory union to support the delivery of services to all  
6       students. The Funding Report noted that the advantages of a census-based  
7       model are that it is simple and transparent, allows flexibility in how the  
8       funding is used by supervisory unions, is aligned with the policy priorities of  
9       serving students who require additional support across the general and special  
10       education service-delivery systems, and is predictable.

11       (f) The General Assembly finds that:

12               (1) students who require additional support would be better served if  
13       supervisory unions adopted the best practices recommended in the Delivery of  
14       Services Report;

15               (2) the State's current reimbursement model of funding special  
16       education serves as an impediment to adopting these best practices, largely due  
17       to the constraint on the use of funds and the misalignment with the policy  
18       priorities of serving students who require additional support across the general  
19       and special education service-delivery systems; and

20               (3) the census-based model of funding for students who require  
21       additional support would enable supervisory unions to adopt the best practices  
22       recommended in the Delivery of Services Report, largely due to the flexibility

1 in how the funds could be used by supervisory unions and the alignment with  
2 the policy priorities.

3 (g) The General Assembly recognizes that changing the models for  
4 delivery of services and funding for students who require additional support is  
5 a significant change for school systems and their constituencies, and that they  
6 will require time and assistance in making necessary adjustments.

7 \* \* \* Goals \* \* \*

8 Sec. 2. GOALS

9 (a) By enacting this legislation, the General Assembly intends to enhance  
10 the effectiveness, availability, and equity of services provided to all students  
11 who require additional support in Vermont's school districts, including  
12 students receiving special education services and students who need additional  
13 support but do not receive special education services.

14 (b) To support the enhanced delivery of these services, the State funding  
15 model for special education shall change for all supervisory unions in fiscal  
16 year 2021, for school year 2020-2021, from a reimbursement model to a  
17 census-based model, which will provide more flexibility in how the funding  
18 can be used, is aligned with the State's policy priorities of serving students  
19 who require additional support across the general and special education  
20 service-delivery systems, and will simplify administration.

21 (c) To provide additional staff and resources to the Agency of Education to  
22 support its work with supervisory unions and schools that are transitioning to

1 the best practices recommended in the report entitled “Expanding and  
2 Strengthening Best-Practice Supports for Students who Struggle” issued by the  
3 District Management Group in November 2017.

4 \* \* \* Census-based Funding Early Implementation Program \* \* \*

5 Sec. 3. CENSUS-BASED FUNDING EARLY IMPLEMENTATION  
6 PROGRAM

7 (a) The Census-based Funding Early Implementation Program (Program) is  
8 created for fiscal year 2020, for the 2019-2020 school year. A supervisory  
9 union may participate in the Program if it satisfies each of the following  
10 conditions:

11 (1) it was included in the report delivered to the Agency of Education  
12 entitled “Expanding and Strengthening Best-Practice Supports for Students  
13 who Struggle” in November 2017 from the District Management Group or it  
14 otherwise worked with the District Management Group to improve its delivery  
15 of special education services; and

16 (2) it notifies the Agency of Education between October 1 and  
17 October 15, 2018 of its election to participate in the Program.

18 (b) In this section, references to “supervisory unions” or “participating  
19 supervisory unions” shall mean participants in the Program. This section shall  
20 supersede any provisions of 16 V.S.A. chapter 101 to the contrary.

21 (c) In lieu of payments and reimbursements under 16 V.S.A. chapter 101,  
22 each participating supervisory union shall receive an educational support grant

1 pursuant to subsection (d) of this section and, if a participating supervisory  
2 union has extraordinary special education expenditures, it shall be eligible for  
3 extraordinary special education reimbursement pursuant to subsection (e) of  
4 this section.

5 (d)(1) As used in this subsection:

6 (A) “Average daily membership” shall have the same meaning as in  
7 16 V.S.A. § 4001(1), except it shall exclude State-placed students.

8 (B) “Average daily membership of a supervisory union” means the  
9 aggregate average daily membership of the school districts that are members of  
10 the participating supervisory union or, for a participating supervisory district,  
11 the average daily membership of the supervisory district.

12 (C) “Long-term membership” of a participating supervisory union in  
13 any school year means the average of the participating supervisory union’s  
14 average daily membership over three school years.

15 (2)(A) The amount of the educational support grant for a participating  
16 supervisory union shall be:

17 (i) the average amount it received for fiscal years 2016, 2017, and  
18 2018 from the State for special education under 16 V.S.A. §§ 2961 (standard  
19 mainstream block grants), 2963 (special education expenditures  
20 reimbursement), and 2963a (exceptional circumstances); increased by

21 (ii) the annual change in the National Income and Product  
22 Accounts (NIPA) Implicit Price Deflator for State and Local Government

1 Consumption Expenditures and Gross Investment as reported by the  
2 U.S. Department of Commerce, Bureau of Economic Analysis.

3 (B) The amount determined under subdivision (A) of this subdivision  
4 (2) shall be divided by the participating supervisory union's long-term  
5 membership to determine the base amount of the educational support grant,  
6 which is the amount of the educational support grant calculated on a per  
7 student basis.

8 (e)(1)(A) As used in this subsection (e), "child" means a student with  
9 disabilities who is three years of age or older in the current school year.

10 (B) As used in this subsection (e), "extraordinary expenditures"  
11 means a participating supervisory union's allowable special education  
12 expenditures that for any one child in fiscal year 2020 exceed the threshold  
13 amount of \$60,000.00.

14 (C) The State Board shall define allowable special education  
15 expenditures that shall include any expenditures required under federal law and  
16 any costs of mediation conducted by a mediator who is approved by the  
17 Secretary.

18 (2) If a participating supervisory union has extraordinary expenditures,  
19 it shall be eligible for extraordinary special education reimbursement  
20 (extraordinary reimbursement) as provided in this subsection.



1           (3) A participating supervisory union that has extraordinary  
2           expenditures in fiscal year 2020 for any one child shall be eligible for  
3           extraordinary reimbursement equal to:

4                   (A) an amount equal to its special education expenditures in that  
5                   fiscal year for that child that exceed the extraordinary expenditures threshold  
6                   amount under subdivision (1)(B) of this subsection (e) (excess expenditures)  
7                   multiplied by 95 percent; plus

8                   (B) an amount equal to the lesser of:

9                           (i) the amount of its excess expenditures; or

10                           (ii)(I) the extraordinary expenditures threshold amount under  
11                           subdivision (1)(B) of this subsection (e), minus

12                                   (II) the base amount of the educational support grant received  
13                                   by the supervisory union under subdivision (d)(2)(B) of this section for that  
14                                   fiscal year, multiplied by

15   (III) 60 percent.

16           (4) The State Board shall establish by rule the administrative process for  
17           supervisory unions to submit claims for extraordinary reimbursement under  
18           this subsection and for the review and payment of those claims.

19           (f) The following sections of Title 16 shall not apply to the participating  
20           supervisory unions:

21                   (1) § 2961 (standard mainstream block grants);

22                   (2) § 2962 (extraordinary services reimbursement);

1           (3) § 2963 (special education expenditures reimbursement);

2           (4) § 2963a (exceptional circumstances);

3           (5) § 2964 (service plan); and

4           (6) § 2968 (reports).

5           (g) The State's policy, as stated in 16 V.S.A. §§ 2941 (policy and purpose),  
6           2963 (special education expenditures reimbursement), and 2967 (aid  
7           projection; State share), to pay 60 percent of the statewide costs expended by  
8           public education at institutions for children with disabilities shall not apply to  
9           expenditures by the participating supervisory unions for children with  
10           disabilities.

11           (h) The Secretary shall include the participating supervisory unions in the  
12           aid projection required by 16 V.S.A. § 2967 (aid projection; State share). The  
13           Secretary shall include in its report under 16 V.S.A. § 2974(a) (special  
14           education program; fiscal review):

15           (1) the total amount of educational support grants made to participating  
16           supervisory unions under subsection (d) of this section; and

17           (2) the total amount of extraordinary special education reimbursement  
18           made to participating supervisory unions under subsection (e) of this section.

19           (i)(1) On or before August 15, 2019, December 15, 2019, and April 15,  
20           2020, based on a warrant issued by the Commissioner of Finance and  
21           Management, the State Treasurer shall withdraw from the Education Fund and  
22           shall forward to each participating supervisory union one-third of the

1 educational support grant due to the supervisory union under subsection (d) of  
2 this section for fiscal year 2020.

3 (2) On or before November 15, 2019, January 15, 2020, April 15, 2020,  
4 and August 1, 2020, each participating supervisory union, to the extent it  
5 incurs extraordinary special education expenditures under subsection (e) of this  
6 section, shall file a financial report with the Secretary in a form prescribed by  
7 the Secretary. The report shall describe total extraordinary special education  
8 expenditures actually incurred during the reporting period.

9 (3) On or before December 15, 2019, February 15, 2020, May 15, 2020,  
10 and September 15, 2020, based on a warrant issued by the Commissioner of  
11 Finance and Management, the State Treasurer shall withdraw from the  
12 Education Fund and shall forward to each participating supervisory union the  
13 amount of extraordinary special education reimbursement incurred by the  
14 supervisory union under subsection (e) of this section that is unreimbursed and  
15 determined by the Agency of Education to be payable to the supervisory union.

16 (j) For purposes of calculating excess spending pursuant to 32 V.S.A.  
17 § 5401(12), “education spending” shall not include spending attributable to the  
18 share of special education spending for a district that is a member of a  
19 participating supervisory union that is not reimbursed as an extraordinary  
20 special education reimbursement under subsection (e) of this section for any  
21 student in the fiscal year occurring two years prior.

1       (k) On or before November 1, 2018, each participating supervisory union  
2       shall submit to the Secretary such information as required by the Secretary to  
3       estimate the supervisory union's projected extraordinary special education  
4       reimbursement for its next fiscal year under subsection (e) of this section.

5       (l) The participating supervisory unions shall assist the Census-based  
6       Funding Advisory Group created under Sec. 9 of this act and the State Board  
7       of Education in the development of the State Board's proposed rules to  
8       implement this act.

9       (m) The Secretary of Education is empowered to apply, waive, or modify  
10       the application of State Board of Education rules for participating supervisory  
11       unions in a manner that is consistent with this section.

12                   \* \* \* Census-based Funding Model; Amendment of Special  
13   Education Laws \* \* \*

14       Sec. 4. 16 V.S.A. chapter 101 is amended to read:

15                                   CHAPTER 101. SPECIAL EDUCATION

16   Subchapter 1. General Provisions

17       § 2941. POLICY AND PURPOSE

18       It is the policy of the State to ensure equal educational opportunities for all  
19       children in Vermont. This means that children with disabilities are entitled to  
20       receive a free appropriate public education. ~~It is further the policy of the State~~  
21       ~~to pay 60 percent of the statewide costs expended by public education for~~  
22       ~~children with disabilities.~~ The purpose of this chapter is to enable the Agency

1 to ensure the provision of the special educational facilities and instruction  
2 necessary to meet the needs of children with disabilities.

3 \* \* \*

4 Subchapter 2. Aid for Special Education and Support Services

5 § 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ EDUCATIONAL  
6 SUPPORT GRANT

7 (a) ~~Each supervisory union shall be eligible to receive a standard~~  
8 ~~mainstream block grant each school year. The mainstream block grant shall be~~  
9 ~~equal to the supervisory union's mainstream salary standard multiplied by~~  
10 ~~60 percent.~~

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

16 (c) ~~As used in this section:~~

17 (1) ~~“Mainstream salary standard” means:~~

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

21 (B) ~~an amount equal to the average special education administrator~~  
22 ~~salary in the State for the preceding year, plus, for any supervisory union with~~

1 ~~member districts which have in the aggregate more than 1,500 average daily~~  
2 ~~membership, a fraction of an additional full-time equivalent salary for a special~~  
3 ~~education administrator, the numerator of which is the aggregate average daily~~  
4 ~~membership of the supervisory union's member districts minus 1,500, and the~~  
5 ~~denominator of which is the aggregate average daily membership of member~~  
6 ~~districts in the largest supervisory union in the State minus 1,500.~~

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

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

17 As used in this section:

18 (1) "Average daily membership" shall have the same meaning as in  
19 subdivision 4001(1) of this title, except it shall exclude State-placed students.

20 (2) "Average daily membership of a supervisory union" means the  
21 aggregate average daily membership of the school districts that are members of

1 the supervisory union or, for a supervisory district, the average daily  
2 membership of the supervisory district.

3 (3) “Educational support grant adjustment” means an increase, as  
4 determined by State Board of Education rules, to the amount of the educational  
5 support grant provided to a supervisory union on account of the supervisory  
6 union’s relatively higher costs in supporting students who require additional  
7 support due to the number of these students or the nature of the services  
8 required.

9 (4) “Long-term membership” of a supervisory union in any school year  
10 means the average of the supervisory union’s average daily membership over  
11 three school years.

12 (b) The State commits to satisfying its special education maintenance of  
13 fiscal support requirement under federal law (34 C.F.R. § 300.163(a)). Each  
14 supervisory union shall be eligible to receive an educational support grant each  
15 fiscal year to support the provision of the supervisory union’s comprehensive  
16 system of educational services, as required under sections 2901 and 2902 of  
17 this title. The amount of the educational support grant for a supervisory union  
18 shall be calculated in accordance with subsection (c) of this section.

19 (c)(1)(A) For fiscal year 2021, the amount of the educational support grant  
20 for a supervisory union shall be:

21 (i) the average amount it received for fiscal years 2017, 2018, and  
22 2019 from the State for special education under sections 2961 (standard

1 mainstream block grants), 2963 (special education expenditures  
2 reimbursement), and 2963a (exceptional circumstances) of this title;  
3 increased by

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

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

12 (2) The State Board of Education shall establish by rule a uniform base  
13 amount of the educational support grant that shall apply to all supervisory  
14 unions for fiscal year 2025. In determining the uniform base amount, the State  
15 Board of Education shall:

16 (A) assume total State funding of educational support grants,  
17 including any educational support grant adjustments, in an amount that  
18 satisfies but does not exceed the amount necessary for the State to satisfy its  
19 special education maintenance of fiscal support requirement under federal  
20 law; and



1           (B) take into account:

2                   (i) the statewide average daily membership for students in  
3 prekindergarten through grade 12;

4                   (ii) the various fiscal year 2021 base amounts of the supervisory  
5 unions; and

6                   (iii) such other factors as the Board determines relevant.

7           (3) To determine the amount of a supervisory union's educational  
8 support grant in fiscal year 2025 and subsequent fiscal years, the uniform base  
9 amount shall be multiplied by the supervisory union's long-term membership.

10           (4) For fiscal years 2022, 2023, and 2024, the amount of the educational  
11 support grant for a supervisory union shall be determined by multiplying the  
12 supervisory union's long-term membership by a base amount established under  
13 State Board of Education rules. The base amount established under State  
14 Board of Education rules shall be designed to move gradually a supervisory  
15 union's fiscal year 2021 base amount to the fiscal year 2025 uniform base  
16 amount established by the State Board under subdivision (2) of this subsection.

17           (5) For fiscal year 2021 and subsequent fiscal years, the amount of the  
18 educational support grant shall be increased by the educational support grant  
19 adjustment for supervisory unions that qualify for the adjustment.

1 § 2962. EXTRAORDINARY SERVICES SPECIAL EDUCATION

2 REIMBURSEMENT

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

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

12 (c) ~~As used in this subchapter, “extraordinary special education~~  
13 ~~expenditures” means a school district’s or supervisory union’s allowable~~  
14 ~~expenditures that for any one child exceed \$70,000.00 for a fiscal year. In this~~  
15 ~~subsection, child means a student with disabilities who is three years of age or~~  
16 ~~older in the current school year. The State Board shall define allowable~~  
17 ~~expenditures that shall include any expenditures required under federal law,~~  
18 ~~and any costs of mediation conducted by a mediator who is approved by the~~  
19 ~~Secretary.~~

20 (1) As used in this section, “child” means a student with disabilities who  
21 is three years of age or older in the current school year.

1           (2) As used in this subchapter, “extraordinary expenditures” means a  
2           supervisory union’s allowable special education expenditures that for any one  
3           child in a fiscal year exceed \$60,000.00, increased annually by the annual  
4           change in the National Income and Product Accounts (NIPA) Implicit Price  
5           Deflator for State and Local Government Consumption Expenditures and  
6           Gross Investment as reported by the U.S. Department of Commerce, Bureau of  
7           Economic Analysis.

8           (3) The State Board of Education shall define allowable special  
9           education expenditures that shall include any expenditures required under  
10           federal law and any costs of mediation conducted by a mediator who is  
11           approved by the Secretary.

12           (b) If a supervisory union has extraordinary expenditures, it shall be  
13           eligible for extraordinary special education reimbursement (extraordinary  
14           reimbursement) as provided in this section.

15           (c) A supervisory union that has extraordinary expenditures in a fiscal year  
16           for any one child shall be eligible for extraordinary reimbursement equal to:

17           (1) an amount equal to its special education expenditures in that fiscal  
18           year for that child that exceed the extraordinary expenditures threshold amount  
19           under subdivision (a)(2) of this section (excess expenditures) multiplied by  
20           95 percent; plus

21           (2) an amount equal to the lesser of:

22           (A) the amount of its excess expenditures; or

1           (B)(i) the extraordinary expenditures threshold amount under  
2           subdivision (a)(2) of this section; minus

3           (ii) the base amount of the educational support grant received by  
4           the supervisory union under subsection 2961(c) of this title for that fiscal year;  
5           multiplied by

6           (iii) 60 percent.

7           (d) The State Board of Education shall establish by rule the administrative  
8           process for supervisory unions to submit claims for extraordinary  
9           reimbursement under this section and for the review and payment of those  
10          claims.

11          § 2963. ~~SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT~~

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

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

20          ~~(c) As used in this subchapter:~~

21                  ~~(1) Special education expenditures are allowable expenditures for~~  
22          ~~special education, as defined by rule of the State Board, less the following:~~

- 1           ~~(A) revenue from federal aid for special education;~~  
2           ~~(B) mainstream service costs, as defined in subdivision 2961(c)(1) of~~  
3 ~~this title;~~  
4           ~~(C) extraordinary special education expenditures, as defined in~~  
5 ~~section 2962 of this title;~~  
6           ~~(D) any transportation expenses already reimbursed;~~  
7           ~~(E) special education costs for a student eligible for aid under section~~  
8 ~~2963a of this title; and~~  
9           ~~(F) other State funds used for special education costs as defined by~~  
10 ~~the State Board by rule.~~

11           ~~(2) The State Board shall define allowable expenditures under this~~  
12 ~~subsection. Allowable expenditures shall include any expenditures required~~  
13 ~~under federal law.~~

14           ~~(3) “Special education expenditures reimbursement rate” means a~~  
15 ~~percentage of special education expenditures that is calculated to achieve the~~  
16 ~~60 percent share required by subsection 2967(b) of this title. [Repealed.]~~

17 § 2963a. ~~EXCEPTIONAL CIRCUMSTANCES~~

18           ~~(a) In lieu of reimbursement under section 2963 of this title, the Secretary~~  
19 ~~shall reimburse a school district or supervisory union for 80 percent of the~~  
20 ~~costs not eligible for reimbursement under section 2962 of this title for each~~  
21 ~~student causing the school district or supervisory union to be eligible for~~  
22 ~~extraordinary services reimbursement pursuant to that section. However, in~~

1 ~~order for a school district or supervisory union to be eligible for reimbursement~~  
2 ~~under this section, the total costs of the school district or supervisory union~~  
3 ~~eligible for extraordinary services reimbursement must equal or exceed~~  
4 ~~15 percent of the total costs eligible for State assistance under sections 2961,~~  
5 ~~2962, and 2963 of this title.~~

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

13 § 2964. SERVICE PLAN

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

21 ~~(b) If a supervisory union fails to file a service plan by October 15, the~~  
22 ~~Secretary may withhold any funds due the supervisory union and its member~~

1 ~~districts under this title until a service plan is filed and accepted by the~~  
2 ~~Secretary as properly completed. [Repealed.]~~

3 \* \* \*

4 § 2967. ~~AID PROJECTION; STATE SHARE~~

5 ~~(a) On or before December 15, the Secretary shall publish an estimate, by~~  
6 ~~supervisory union and its member districts to the extent they anticipate~~  
7 ~~reimbursable expenditures under this chapter, of the amount of State assistance~~  
8 ~~necessary to fully fund sections 2961 through 2963 of this title in the ensuing~~  
9 ~~school year.~~

10 ~~(b) The total expenditures made by the State in any fiscal year pursuant to~~  
11 ~~this chapter shall be 60 percent of the statewide total special education~~  
12 ~~expenditures of funds that are not derived from federal sources. Special~~  
13 ~~education expenditures shall include:~~

14 ~~(1) costs eligible for grants and reimbursements under sections 2961~~  
15 ~~through 2963a of this title;~~

16 ~~(2) costs for services for persons who are visually impaired and persons~~  
17 ~~who are deaf and hard of hearing;~~

18 ~~(3) costs for the interdisciplinary team program;~~

19 ~~(4) costs for regional specialists in multiple disabilities;~~

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

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

2           ~~[Repealed.]~~

3           § 2968. **REPORTS**

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

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

21          ~~(c) The Secretary shall review and monitor the reports received pursuant to~~  
22          ~~subsection (a) of this section as well as the service plans received pursuant to~~



1 ~~section 2964 of this title, and shall assist supervisory unions and school~~  
2 ~~districts to complete and submit these documents in a timely and accurate~~  
3 ~~fashion.~~

4 ~~(d) Special education receipts and expenditures shall be included within the~~  
5 ~~audits required of a supervisory union and its member districts that have~~  
6 ~~incurred reimbursable expenditures under this chapter pursuant to section 323~~  
7 ~~of this title. [Repealed.]~~

8 § 2969. PAYMENTS

9 (a)(1) On or before August 15, December 15, and April 15 of each fiscal  
10 year, the State Treasurer shall withdraw from the Education Fund, based on a  
11 warrant issued by the Commissioner of Finance and Management, and shall  
12 forward to each supervisory union ~~and its member districts to the extent they~~  
13 ~~anticipate reimbursable expenditures under this chapter, the amount of State~~  
14 ~~assistance estimated in accordance with State Board rules to be necessary to~~  
15 ~~fund sections 2961 through 2963a of this title in the current fiscal period. The~~  
16 ~~State Board shall by rule ensure that the amount of such assistance shall be~~  
17 ~~adjusted to compensate for any overpayments or underpayments determined,~~  
18 ~~after review and acceptance of the reports submitted under section 2968 of this~~  
19 ~~title, to have been made in previous periods. Notwithstanding this subsection,~~  
20 ~~failure to submit the reports within the timelines established by subsection~~  
21 ~~2968(a) of this title shall result in the withholding of any payments until the~~

1 ~~report is filed~~ one-third of the educational support grant due to the supervisory  
2 union under section 2961 of this title for that fiscal year.

3 (2) On or before November 15, January 15, April 15, and August 1 of  
4 each school year, each supervisory union, to the extent it incurs extraordinary  
5 expenditures under section 2962 of this title, shall file a financial report with  
6 the Secretary in a form prescribed by the Secretary. The report shall describe  
7 total extraordinary expenditures actually incurred during the reporting period.

8 (3) On or before December 15, February 15, May 15, and September 15  
9 of each school year, based on a warrant issued by the Commissioner of  
10 Finance and Management, the State Treasurer shall withdraw from the  
11 Education Fund and shall forward to each supervisory union the amount of  
12 extraordinary reimbursement incurred by the supervisory union under section  
13 2962 of this title that is unreimbursed and determined by the Agency of  
14 Education to be payable to the supervisory union.

15 (b) [Repealed.]

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

20 (d) For the training of teachers, administrators, and other personnel in the  
21 identification and evaluation of, and provision of ~~education~~ educational  
22 services to children who require educational supports, each fiscal year the

1 Secretary shall use up to 0.75 percent of the State funds appropriated under this  
2 subchapter. In order to set priorities for the use of these funds, the Secretary  
3 shall identify effective practices and areas of critical need. The Secretary may  
4 expend up to five percent of these funds for statewide training and shall  
5 distribute the remaining funds to school districts or supervisory unions.

6 (e) School districts and supervisory unions that apply for funds under this  
7 section must submit a plan for training that will result in lasting changes in  
8 their school systems and give assurances that at least 50 percent of the costs of  
9 training, including in-kind costs, will be assumed by the applicant. The  
10 Secretary shall establish written procedures and criteria for the award of such  
11 funds. In addition, the Secretary may identify schools most in need of training  
12 assistance and may pay for 100 percent of the assistance to the supervisory  
13 union or school district for these schools to fund the provision of training  
14 assistance for these schools.

15 \* \* \*

16 § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

18 (1) ~~special education expenditures by supervisory unions~~ the total  
19 amount of educational support grants made to supervisory unions under section  
20 2961 of this title;

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

1 extraordinary special education reimbursement made to supervisory unions  
2 under section 2962 of this title;

3 (3) results for special education students;

4 (4) the availability of special education staff;

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

7 (6) the status of the ~~education~~ educational support systems in  
8 supervisory unions; and

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

11 (A) the percentage of the total average daily membership represented  
12 by special education students statewide and by supervisory union;

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

15 (C) the percentage of special education students served by public  
16 schools within the supervisory union, by day placement, and by residential  
17 placement.

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

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

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

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

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

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

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

14           ~~(7) any other factors affecting its spending.~~

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

19           ~~(d) For the purposes of this section, a "high spending supervisory union" is~~  
20           ~~a supervisory union that, in the previous school year, spent at least 20 percent~~  
21           ~~more than the statewide average of special education eligible costs per average~~  
22           ~~daily membership. Also for the purposes of this section, a "low spending~~

1     ~~supervisory union” is a supervisory union that, in the previous school year,~~  
2     ~~spent no more than 80 percent of the statewide average of special education~~  
3     ~~eligible costs per average daily membership.~~

4     ~~(e) The Secretary and Agency staff shall assist the high spending~~  
5     ~~supervisory unions, that have been identified in subsection (a) of this section~~  
6     ~~and have not presented an explanation for their spending that is satisfactory to~~  
7     ~~the Secretary, to identify reasonable alternatives and to develop a remediation~~  
8     ~~plan. Development of the remediation plan shall include an on-site review.~~  
9     ~~The supervisory union shall have two years to make progress on the~~  
10    ~~remediation plan. At the conclusion of the two years or earlier, the supervisory~~  
11    ~~union shall report its progress on the remediation plan.~~

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

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

20    ~~(2) If the supervisory union fails to make satisfactory progress after the~~  
21    ~~first year of withholding, 10 percent shall be withheld in each subsequent year~~  
22    ~~pending satisfactory compliance with the plan; provided, however, before~~

1 funds are withheld in any year under this subdivision (f)(2), the supervisory  
2 union shall explain to the State Board either the reasons the supervisory union  
3 believes it made satisfactory progress on the remediation plan or the reasons it  
4 failed to do so. The State Board's decision whether to withhold funds under  
5 this subdivision shall be final.

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

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

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

1 § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL  
2 ASSISTANCE

3 The Secretary may use up to two percent of the funds appropriated for  
4 allowable special education expenditures, as that term is defined in ~~subsection~~  
5 ~~2967(b) of this title~~ State Board of Education rules, to directly assist  
6 supervisory unions with special education expenditures of an unusual or  
7 unexpected nature. ~~These funds shall not be used for exceptional~~  
8 ~~circumstances that are funded under section 2963a of this title.~~ The  
9 Secretary's decision regarding a supervisory union's eligibility for and amount  
10 of assistance shall be final.

11 \* \* \* Technical and Conforming Changes \* \* \*

12 Sec. 5. 16 V.S.A. § 826 is amended to read:

13 § 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

14 \* \* \*

15 (c) Excess special education costs incurred by a ~~district~~ supervisory union  
16 in providing special education services to a student beyond those covered by  
17 tuition may be charged to the student's supervisory union for the district of  
18 residence. However, only actual costs or actual proportionate costs attributable  
19 to the student may be charged.

20 \* \* \*





1 (c) The State Board is authorized to enter into interstate compacts with  
2 other states to regulate rates for tuition, room, and board for students receiving  
3 special education in independent schools.

4 Sec. 8. 16 V.S.A. § 4002 is amended to read:

5 § 4002. PAYMENT; ALLOCATION

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

12 (b) The Secretary shall notify the superintendent or chief executive officer  
13 of each supervisory union in writing of federal or State funds disbursed to  
14 member school districts.

15 \* \* \* Census-based Funding Advisory Group \* \* \*

16 Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

17 (a) Creation. There is created the Census-based Funding Advisory Group  
18 to consider and make recommendations on the implementation of a census-  
19 based model of funding for students who require additional support.

1       (b) Membership. The Advisory Group shall be composed of the following  
2       17 members:

3           (1) the Executive Director of the Vermont Superintendents Association  
4       or designee;

5           (2) the Executive Director of the Vermont School Boards Association or  
6       designee;

7           (3) the Executive Director of the Vermont Council of Special Education  
8       Administrators or designee;

9           (4) the Executive Director of the Vermont Principals' Association or  
10       designee;

11           (5) the Executive Director of the Vermont-National Education  
12       Association or designee;

13           (6) the Executive Director of the Vermont Independent Schools  
14       Association or designee;

15           (7) three representatives of the Agency of Education selected by the  
16       Secretary, one with management responsibility for special education practices,  
17       one with financial responsibility, and one with special education program  
18       responsibility;

19           (8) one member selected by the Vermont Superintendents Association;

20           (9) one member selected by the Vermont Principals' Association;

21           (10) two members selected by the Vermont Council of Special  
22       Education Administrators;

1           (11) one member selected by the Vermont-National Education  
2           Association who is a special education teacher;

3           (12) two members selected by the Vermont Association of School  
4           Business Officials; and

5           (13) one member selected by the Vermont Legal Aid Disability Law  
6           Project.

7           (c) Powers and duties. The Advisory Group shall:

8           (1) advise the State Board of Education on the development of proposed  
9           rules to implement this act prior to the submission of the proposed rules to the  
10           Interagency Committee on Administrative Rules;

11           (2) advise the Agency of Education and supervisory unions on the  
12           implementation of this act; and

13           (3) recommend to the General Assembly any statutory changes it  
14           determines are necessary or advisable to meet the goals of this act.

15           (d) Assistance. The Advisory Group shall have the administrative,  
16           technical, and legal assistance of the Agency of Education.

17           (e) Meetings.

18           (1) The Secretary of Education shall call the first meeting of the  
19           Advisory Group to occur on or before September 30, 2018.

20           (2) The Advisory Group shall select a chair from among its members at  
21           the first meeting.

22           (3) A majority of the membership shall constitute a quorum.

1           (4) The Advisory Group shall cease to exist on June 30, 2020.

2           (f) Reports. On or before January 15, 2019, the Advisory Group shall  
3           submit a written report to the House and Senate Committees on Education and  
4           the State Board of Education with its findings and recommendations on the  
5           development of proposed rules to implement this act and any recommendations  
6           for any amendments to legislation. On or before January 15, 2020, the  
7           Advisory Group shall submit a supplemental written report to the House and  
8           Senate Committees on Education and the State Board of Education with a  
9           status of implementation under this act and any recommendations for any  
10          amendments to legislation.

11          (g) Reimbursement. Members of the Advisory Group who are not  
12          employees of the State of Vermont and who are not otherwise compensated or  
13          reimbursed for their attendance shall be entitled to per diem compensation and  
14          reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than  
15          16 meetings.

16          (h) Appropriation. Notwithstanding any provision to the contrary in  
17          16 V.S.A. § 4025, the sum of \$6,400.00 is appropriated from the Education  
18          Fund to the Agency of Education to provide funding for the purposes set forth  
19          in this section.

20                                   \* \* \* Education Weighting Report \* \* \*

21          Sec. 10. REPEAL

22          Sec. 35 of 2017 Acts and Resolves No. 49 is repealed.

1       Sec. 11. EDUCATION WEIGHTING REPORT

2           (a) The Agency of Education, in consultation with the Secretary of Human  
3       Services, the Vermont Superintendents Association, the Vermont School  
4       Boards Association, and the Vermont-National Education Association, shall  
5       consider and make recommendations on the following:

6           (1) The criteria used for determining weighted long-term membership of  
7       a school district under 16 V.S.A. § 4010, including each of the following:

8           (A) The current weighting factors and any supporting evidence or  
9       basis in the historical record for these factors.

10          (B) The relationship between each of the current weighting factors  
11       and the quality and equity of educational outcomes for students.

12          (C) Whether any of the weighting factors, including the weighting  
13       factors for students from economically deprived backgrounds and for students  
14       for whom English is not the primary language, should be modified, and if so,  
15       how the weighting factors should be modified and if the modification would  
16       further the quality and equity of educational outcomes for students.

17          (D) Whether to add any weighting factors, including a school district  
18       population density factor, and if so, why the weighting factor should be added  
19       and if the weighting factor would further the quality and equity of educational  
20       outcomes for students. In considering whether to recommend the addition of a  
21       school district population density factor, the Agency of Education shall  
22       consider the practices of other states, information from the National

1 Conference of State Legislatures, and research conducted by higher education  
2 institutions working on identifying rural or urban education financing factors.

3 (2) The criteria to be applied by the State Board of Education in its  
4 rulemaking process for increasing the amount of educational support grants  
5 paid by the State to supervisory unions in order to provide additional financial  
6 support to supervisory unions with relatively high costs due to the number of  
7 students who require additional support or the nature of the services required.

8 The criteria shall include the qualification requirements for the adjustment and  
9 the manner in which the adjustment should be applied. In making this  
10 recommendation, the Agency of Education shall consider the report entitled  
11 “Study of Vermont State Funding for Special Education” issued in December  
12 2017 by the University of Vermont Department of Education and Social  
13 Services.

14 (b) In addition to considering and making recommendations on the criteria  
15 used for determining weighted long-term membership of a school district under  
16 subdivision (a)(1) of this section, the Agency of Education shall consider and  
17 make recommendations on other methods that would further the quality and  
18 equity of educational outcomes for students.

19 (c) On or before February 15, 2019, the Agency of Education shall submit a  
20 written report to the House and Senate Committees on Education, the House  
21 Committee on Ways and Means, and the Senate Committee on Finance with its  
22 findings and any recommendations.

1       (d) The Agency of Education shall have the technical assistance of the Joint  
2       Fiscal Office and the Office of Legislative Council.

3       (e) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the  
4       sum of \$300,000.00 is appropriated from the Education Fund to the Agency of  
5       Education to provide funding for the purposes set forth in this section. The  
6       Agency of Education shall contract with a contractor with expertise in  
7       Vermont's education funding system to assist the Agency in producing the  
8       study required by this section. Any application of funds for the purpose of  
9       administrative overhead shall be capped at ten percent of the total sum  
10       allocated pursuant to this subsection.

11                   \* \* \* Consulting Services on the Delivery of Special

12                                   Education Services \* \* \*

13       Sec. 12. CONSULTING SERVICES ON THE DELIVERY OF SPECIAL  
14                   EDUCATION SERVICES

15       (a) Consulting services contract. The Agency of Education shall contract  
16       with a consulting firm meeting the criteria set forth in subsection (c) of this  
17       section for the provision of special education consulting services to  
18       supervisory unions. The term of the contract shall cover the 2018-2019, 2019-  
19       2020, and 2020-2021 school years and shall begin on July 1, 2018 and end on  
20       June 30, 2021. The consulting firm shall work with supervisory unions that,  
21       during each school year covered by the contract, are or are anticipating



1 adjusting to the changes in special education funding as provided under  
2 this act.

3 (b) Nature of consulting services and reporting.

4 (1) The consulting firm shall assist supervisory unions to expand and  
5 improve their delivery of services to students who require additional supports  
6 in accordance with the report entitled “Expanding and Strengthening Best-  
7 Practice Supports for Students who Struggle” delivered to the Agency of  
8 Education in November 2017 from the District Management Group. This  
9 assistance shall include the training of teachers and staff.

10 (2) The consulting firm shall present to the General Assembly and the  
11 Agency of Education on or before December 15 in 2019, 2020, and 2021 a  
12 report describing what changes supervisory unions have made to expand and  
13 improve their delivery of services to students who require additional supports  
14 and describing the associated delivery challenges. The Agency shall share  
15 each report with all supervisory unions. The consulting firm shall provide to  
16 the Agency of Education any and all research and data compiled during the  
17 course of its work pursuant to this section.

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

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

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

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

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

10          (d) Appropriation. Notwithstanding any provision to the contrary in  
11          16 V.S.A. § 4025, the sum of \$200,000.00 is appropriated from the Education  
12          Fund for each of fiscal years 2019, 2020, and 2021 to the Agency of  
13          Education, which the Agency shall administer in accordance with this section,  
14          and any unused funds shall revert to the Education Fund.

15                           \* \* \* Agency of Education; Staffing \* \* \*

16          Sec. 13. AGENCY OF EDUCATION; STAFFING

17          The following positions are created in the Agency of Education: one full-  
18          time, exempt legal counsel specializing in special education law and two full-  
19          time, classified positions specializing in special education programming.  
20          There is appropriated to the Agency of Education from the General Fund for  
21          fiscal year 2019 the amount of \$325,000.00 for salaries, benefits, and operating  
22          expenses.

1                   \* \* \* Extraordinary Services Reimbursement \* \* \*

2           Sec. 14. 16 V.S.A. § 2962 is amended to read:

3           § 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

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

10          (b) The amount of extraordinary services reimbursement provided to each  
11          district or supervisory union shall be equal to ~~90~~ 95 percent of its extraordinary  
12          special education expenditures.

13          (c) As used in this subchapter, “extraordinary special education  
14          expenditures” means a school district’s or supervisory union’s allowable  
15          expenditures that for any one child exceed ~~\$50,000.00~~ \$60,000.00 for a fiscal  
16          year. In this subsection, child means a student with disabilities who is three  
17          years of age or older in the current school year. The State Board shall define  
18          allowable expenditures that shall include any expenditures required under  
19          federal law, and any costs of mediation conducted by a mediator who is  
20          approved by the Secretary.

1 Sec. 15. 16 V.S.A. § 4001 is amended to read:

2 § 4001. DEFINITIONS

3 As used in this chapter:

4 \* \* \*

5 (6) “Education spending” means the amount of the school district  
6 budget, any assessment for a joint contract school, career technical center  
7 payments made on behalf of the district under subsection 1561(b) of this title,  
8 and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is  
9 paid for by the school district, but excluding any portion of the school budget  
10 paid for from any other sources such as endowments, parental ~~fund raising~~  
11 fundraising, federal funds, nongovernmental grants, or other State funds such  
12 as special education funds paid under chapter 101 of this title.

13 (A) [Repealed.]

14 (B) For purposes of calculating excess spending pursuant to  
15 32 V.S.A. § 5401(12), “education spending” shall not include:

16 \* \* \*

17 (v) Spending attributable to the district’s share of special  
18 education spending ~~in excess of \$50,000.00~~ that is not reimbursed as an  
19 extraordinary reimbursement under section 2962 of this title for any one  
20 student in the fiscal year occurring two years prior.

21 \* \* \*



1 supervisory union shall not be required to submit a service plan for fiscal year  
2 2021.

3 (b) On or before November 1, 2019, a supervisory union shall submit to the  
4 Secretary such information as required by the Secretary to estimate the  
5 supervisory union's projected fiscal year 2021 extraordinary special education  
6 reimbursement under Sec. 4 of this act.

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. 18. ALLOWABLE SPECIAL EDUCATION COSTS

11 (a) Allowable special education costs shall include salaries and benefits of  
12 licensed special education teachers, including vocational special needs teachers  
13 and instructional aides for the time they carry out special education  
14 responsibilities.

15 (1) The allowable cost that a local education agency may claim includes  
16 a school period or service block during which the staff member identified in  
17 this subsection is providing special education services to a group of eight or  
18 fewer students, and not less than 25 percent of the students are receiving the  
19 special education services, in accordance with their individualized education  
20 programs.

21 (2) In addition to the time for carrying out special education  
22 responsibilities, a local education agency may claim up to 20 percent of special

1 education staff members' time, if that staff spends the additional time  
2 performing consultation to assist with the development of and providing  
3 instructional services required by:

4 (A) a plan pursuant to Section 504 of the Rehabilitation Act of 1973,  
5 as amended; or

6 (B) a plan for students who require additional assistance in order to  
7 succeed in the general education environment.

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

9 \* \* \* Effective Dates \* \* \*

10 Sec. 19. EFFECTIVE DATES

11 (a) The following sections shall take effect on July 1, 2020:

12 (1) Sec. 4 (amendment to 16 V.S.A. chapter 101);

13 (2) Sec. 17 (transition).

14 (b) The following sections shall take effect on July 1, 2019:

15 (1) Sec. 14 (extraordinary services reimbursement); and

16 (2) Sec. 15 (amendment to 16 V.S.A. § 4001).

17 (c) This section and the remaining sections shall take effect on passage.