

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; special education; funding

4 Statement of purpose of bill as introduced: This bill proposes to require that  
5 special education funding by the State is paid to supervisory unions, rather than  
6 to school districts; make an appropriation for the University of Vermont to  
7 study the feasibility of implementing the census block model for special  
8 education funding and direct the University of Vermont to conduct this study;  
9 make an appropriation for up to 10 supervisory unions, supervisory districts, or  
10 unified union districts to retain the District Management Council for the  
11 provision of special education consulting services; and establish a new staff  
12 position in the Agency of Education.

13 An act relating to special education

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

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

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

17 CHAPTER 101. SPECIAL EDUCATION

18 Subchapter 1. General Provisions

19 \* \* \*

1 § 2948. STATE AID

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

4 (b) [Repealed.]

5 (c) Each ~~school district~~ supervisory union shall receive an essential early  
6 education grant each school year. Grants shall be distributed according to the  
7 estimated number of children from three through five years of age. The State  
8 Board by rule shall encourage coordination of services and may set other terms  
9 of the grant. Each ~~district~~ supervisory union shall be responsible for the  
10 remainder of the costs of providing necessary services under section 2956 of  
11 this title. Annually, for each following fiscal year, the essential early education  
12 grant shall be increased by the most recent cumulative price index, as of  
13 November 15, for State and local government purchases of goods and services  
14 from fiscal year 2002 through that following fiscal year, as provided through  
15 the State's participation in the New England Economic Project.

16 (d), (e) [Repealed.]

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

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

11 (h)-(j) [Repealed.]

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

15 (l) [Repealed.]

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

18 (n) If a student is being provided education or special education, or both in  
19 a school operated by the Department for Children and Families, the funding  
20 and provision of services shall be the responsibility of the Department for  
21 Children and Families and special education procedural responsibility shall be

1 the responsibility of the supervisory union for the school district of residence  
2 of the student’s parent, parents, or guardian.

3 § 2949. RECIPROCAL AGREEMENTS WITH OTHER STATES

4 \* \* \*

5 § 2950. STATE-PLACED STUDENTS

6 (a) ~~School district~~ Supervisory Union reimbursement. The supervisory  
7 union in which there is a school district responsible for educating a  
8 State-placed student under section 1075 of this title may claim and the  
9 Secretary shall reimburse 100 percent of all special education costs for the  
10 student, including costs for mainstream services. As a condition of receiving  
11 this reimbursement, the ~~district~~ supervisory union shall provide documentation  
12 in support of its claim, sufficient to enable the Secretary to determine whether  
13 to recommend appropriate cost-saving alternatives. The Secretary may  
14 approve any costs incurred in educating a State-placed student who is not  
15 eligible for special education that are incurred due to the special needs of the  
16 student, and, if approved, the Secretary shall pay those costs. When a State  
17 agency places and registers a student in a new district, the district and the  
18 supervisory union of which it is a member may request and the Agency of  
19 Education, or the agency that placed the student, or both, shall provide prompt  
20 consultative and technical assistance to the receiving district and the  
21 supervisory union.

1 \* \* \*

2 § 2957. SPECIAL EDUCATION ADMINISTRATIVE AND JUDICIAL  
3 APPEALS; LIMITATIONS

4 \* \* \*

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

12 § 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL  
13 PLACEMENTS

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

17 (b) The Secretary may establish from within the Agency a Residential  
18 Placement Review Team. At the discretion of the Secretary, other persons not  
19 employed by the Agency may be appointed to serve on the Team. The Team  
20 shall make every effort to assist ~~school districts~~ supervisory unions and parents

1 in understanding the range of educational options available as early as possible  
2 in the planning process for the child. The Team shall:

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

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

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

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

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

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

18 (1) provision for the Secretary to initiate a due process proceeding to  
19 challenge the need for residential placement where the team believes that a less  
20 restrictive educational placement is both available and appropriate for the child  
21 with a disability, and to reimburse the ~~school district~~ supervisory union and the

1 parents or guardian of the child for reasonable costs and attorney’s fees in the  
2 event the Secretary does not prevail;

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

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

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

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

1 § 2959. RULEMAKING; MEDIATION

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

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

10 § 2959a. EDUCATION MEDICAID RECEIPTS

11 (a) It is the intent of the General Assembly that the State of Vermont shall  
12 maximize its receipt of federal Medicaid dollars available for reimbursement  
13 of medically related services provided to students who are Medicaid eligible.  
14 It is further the intent that:

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

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



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

5 (c) At least annually, the Secretary of Education shall pay to each  
6 supervisory union submitting Medicaid bills under this section, 50 percent of  
7 the reimbursed funds generated by the supervisory union's bill, excluding  
8 claims generated by State-placed students. Unless the supervisory union has  
9 agreed to use the funds to operate a supervisory unionwide program or to  
10 distribute the funds in a different manner, upon receipt, the supervisory union  
11 shall distribute the funds to its member school districts based on how the funds  
12 were generated. The Secretary may withhold payment due a ~~school district~~  
13 supervisory union pursuant to section 2950 of this title for a Medicaid-eligible  
14 State-placed student if the ~~school district~~ supervisory union has not submitted a  
15 Medicaid claim for reimbursable services for that student.

16 (d) If the amount of Medicaid reimbursement funds received for services  
17 provided in the prior State fiscal year exceeds \$25,000,000.00, in addition to  
18 the 50 percent of the funds paid to supervisory unions submitting Medicaid  
19 bills, 25 percent of the amounts in excess of the \$25,000,000.00 shall be paid  
20 into an incentive fund created in the Agency of Education. These funds shall  
21 be used for an incentive payment to supervisory unions with student

1 participation rates of over 80 percent in accordance with a formula to be  
2 developed by the Agency, in consultation with the Vermont Superintendents  
3 Association. For any incentive payments made subsequent to fiscal year 2007,  
4 the \$25,000,000.00 threshold of this subsection shall be increased by the  
5 percentage increase of the most recent New England Economic Project  
6 Cumulative Price Index, as of November 15, for state and local government  
7 purchases of goods and services from fiscal year 2005 through the fiscal year  
8 for which the payment is being determined, plus an additional one-tenth of one  
9 percent.

10 (e) ~~School districts~~ Supervisory unions shall use funds received under this  
11 section to pay for reasonable costs of administering the Medicaid claims  
12 process, and school districts or supervisory unions shall use funds received  
13 under this section for prevention and intervention programs in prekindergarten  
14 through grade 12. The programs shall be designed to facilitate early  
15 identification of and intervention with children with disabilities and to ensure  
16 all students achieve rigorous and challenging standards approved and adopted  
17 by the State Board or locally adopted standards. A ~~school district~~ supervisory  
18 union shall provide annual written justification to the Secretary of Education ~~of~~  
19 ~~the use of~~ how it or its member districts used the funds. Such annual  
20 submission shall show how the funds' use is expressly linked to those  
21 provisions of the ~~school district's~~ supervisory union's action plan that directly

1 relate to improving student performance. A ~~school district~~ supervisory union  
2 shall include in its annual report the amount of the prior year's Medicaid  
3 reimbursement revenues and the use of Medicaid funds consistent with the  
4 purposes set forth in this subsection.

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

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

13 \* \* \*

14 Subchapter 2. Aid for Special Education and Support Services

15 § 2961. STANDARD MAINSTREAM BLOCK GRANTS

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

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

6 (c) As used in this section:

7 (1) “Mainstream salary standard” means:

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

11 (B) ~~its share, prorated according to average daily membership among~~  
12 ~~the member districts of the supervisory union,~~ of an amount equal to the  
13 average special education administrator salary in the State for the preceding  
14 year, plus, for any supervisory union ~~or supervisory district~~ with member  
15 districts which have in the aggregate more than 1,500 average daily  
16 membership, ~~the school district’s prorated share of~~ a fraction of an additional  
17 full-time equivalent salary for a special education administrator, the numerator  
18 of which is the aggregate average daily membership ~~in~~ of the supervisory  
19 ~~union or supervisory district~~ union’s member districts minus 1,500, and the  
20 denominator of which is the aggregate average daily membership of member

1 ~~districts~~ in the largest supervisory union or ~~supervisory district~~ in the State  
2 minus 1,500.

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

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

13 § 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

14 (a) Except as otherwise provided in this subchapter, extraordinary services  
15 reimbursement shall be payable to each ~~town school district, city school~~  
16 ~~district, union school district, unified union school district, incorporated school~~  
17 ~~district, the member school districts of an interstate school district, and~~  
18 ~~unorganized town or gore~~ supervisory union.

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

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

9 (d) [Repealed.]

10 § 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

11 (a) Each ~~town school district, city school district, union school district,~~  
12 ~~unified union school district, incorporated school district, the member school~~  
13 ~~districts of an interstate school district, and unorganized town or gore~~  
14 supervisory union shall receive a special education expenditures  
15 reimbursement grant each school year.

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

19 \* \* \*

1 § 2963a. EXCEPTIONAL CIRCUMSTANCES

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

5 (1) Costs not eligible for reimbursement under section 2962 of this title  
6 for each student causing the ~~school-district~~ supervisory union to be eligible for  
7 extraordinary services reimbursement pursuant to that section. However, in  
8 order for a ~~school-district~~ supervisory union to be eligible for reimbursement  
9 under this section, the total costs of the ~~district~~ supervisory union eligible for  
10 extraordinary services reimbursement must equal or exceed 15 percent of the  
11 total costs eligible for ~~state~~ State assistance under sections 2961, 2962, and  
12 2963 of this title.

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

16 (b) An eligible ~~school-district~~ supervisory union may apply to the Secretary  
17 to receive reimbursement under this section. The Secretary shall award  
18 reimbursement to a ~~school-district~~ supervisory union under this section if the  
19 Secretary makes a determination that the ~~school-district~~ supervisory union  
20 considered all the cost-effective and appropriate available alternatives for

1 placement and programs for students before incurring these costs. A decision  
2 of the Secretary shall be final.

3 § 2964. SERVICE PLAN

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

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

14 § 2965. WITHHOLDING OF AID

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



1 § 2967. AID PROJECTION; STATE SHARE

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

9 \* \* \*

10 § 2968. REPORTS

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

18 (b) If a supervisory union ~~or school district~~ fails to file a complete report by  
19 August 1, until the properly completed August 1 report is filed and accepted by  
20 the Secretary, the Secretary may withhold any funds due the supervisory union  
21 ~~or school district~~ under this title and shall subtract \$100.00 per business day

1 from funds due to the supervisory union ~~or school district~~ under this title for  
2 that fiscal year. The Secretary may waive the \$100.00 penalty required under  
3 this subsection upon appeal by the supervisory union ~~or school district~~. The  
4 Secretary shall establish procedures for administration of this subsection.

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

10 (d) Special education receipts and expenditures shall be included within the  
11 audits required of supervisory unions ~~and school districts~~ pursuant to ~~sections~~  
12 section 323 and 563(17) of this title.

13 § 2969. PAYMENTS

14 (a) On or before August 15, December 15, and April 15 of each school  
15 year, the State Treasurer shall withdraw from the Education Fund, based on  
16 warrant of the Commissioner of Finance and Management, and shall forward  
17 to each ~~school district~~ supervisory union, the amount of State assistance  
18 estimated in accordance with State Board rules to be necessary to fund sections  
19 2961 through 2963a of this title in the current fiscal period. The State Board  
20 shall by rule ensure that the amount of such assistance shall be adjusted to  
21 compensate for any overpayments or underpayments determined, after review

1 and acceptance of the reports submitted under section 2968 of this title, to have  
2 been made in previous periods. Notwithstanding this subsection, failure to  
3 submit the reports within the timelines established by subsection 2968(a) of  
4 this title shall result in the withholding of any payments until the report is filed.

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

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

10 (d) For the training of teachers, administrators, and other personnel in the  
11 identification and evaluation of, and provision of education services to children  
12 who require educational supports, each fiscal year the Secretary shall use up to  
13 0.75 percent of the State funds appropriated under this subchapter. In order to  
14 set priorities for the use of these funds, the Secretary shall identify effective  
15 practices and areas of critical need. The Secretary may expend up to five  
16 percent of these funds for statewide training and shall distribute the remaining  
17 funds to ~~school districts or~~ supervisory unions.

18 (e) ~~School districts and supervisory~~ Supervisory unions that apply for funds  
19 under this section must submit a plan for training that will result in lasting  
20 changes in their school systems and give assurances that at least 50 percent of  
21 the costs of training, including in-kind costs, will be assumed by the applicant.

1 The Secretary shall establish written procedures and criteria for the award of  
2 such funds. In addition, the Secretary may identify schools most in need of  
3 training assistance and may pay for 100 percent of the assistance ~~provided to~~  
4 the supervisory union for these schools to fund the provision of training  
5 assistance for these schools.

6 §§ 2970, 2971. [RESERVED FOR FUTURE USE.].

7 \* \* \*

8 § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

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

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

15 (3) results for special education students;

16 (4) the availability of special education staff;

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

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

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

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

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

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

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

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

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

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

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

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

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

8           (7) any other factors affecting its spending.

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

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

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

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

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

17 (2) If the district fails to make satisfactory progress after the first year of  
18 withholding, 10 percent shall be withheld in each subsequent year pending  
19 satisfactory compliance with the plan; provided, however, before funds are  
20 withheld in any year under this subdivision (f)(2), the ~~district~~ supervisory  
21 union shall explain to the State Board either the reasons the ~~district~~ supervisory

1 union believes it made satisfactory progress on the remediation plan or the  
2 reasons it failed to do so. The State Board’s decision whether to withhold  
3 funds under this subdivision shall be final.

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

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

18 (h) Nothing in this section shall prevent a ~~school-district~~ supervisory union  
19 from seeking and receiving the technical assistance of Agency staff to reduce  
20 its special 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 special education expenditures, as that term is defined in subsection 2967(b) of  
5 this title, to directly assist ~~school districts~~ supervisory unions with special  
6 education expenditures of an unusual or unexpected nature. These funds shall  
7 not be used for exceptional circumstances that are funded under section 2963a  
8 of this title. The Secretary's decision regarding a ~~district's~~ supervisory union's  
9 eligibility for and amount of assistance shall be final.

10 \* \* \* Appropriation to Study Census Block Model \* \* \*

11 Sec. 2. APPROPRIATION TO THE UNIVERSITY OF VERMONT TO  
12 STUDY THE CENSUS BLOCK MODEL OF FUNDING

13 The sum of \$ [REDACTED] is appropriated from the [Education/General] Fund in  
14 fiscal year 2017 to the University of Vermont for the purpose of research and  
15 development regarding special education funding and practice. Any  
16 application of funds by the University for the purpose of administrative  
17 overhead shall be capped at five percent of the total sum appropriated pursuant  
18 to this section. The University shall evaluate the feasibility of implementing  
19 the census block model of funding for special education in Vermont, including  
20 the advantages, disadvantages, and policy considerations. The University shall  
21 develop a recommendation to use this funding model in Vermont, which shall

1 be designed to provide incentives for desirable practices and stimulate  
2 innovation in the delivery of services and shall take into account any factors  
3 the University determines relevant. The University shall present its findings  
4 and recommendations to the General Assembly and the Agency of Education  
5 by October 1, 2017. The University shall provide any and all research and data  
6 compiled during the course of its work pursuant to this section to the Agency  
7 of Education.

8 \* \* \* Appropriation to the District Management Council \* \* \*

9 Sec. 3. APPROPRIATION TO THE DISTRICT MANAGEMENT COUNCIL  
10 TO PROVIDE CONSULTING SERVICES ON THE DELIVERY OF  
11 SPECIAL EDUCATION SERVICES

12 The sum of up to \$ [redacted] is appropriated from the [Education/General Fund]  
13 to the District Management Council for the purpose of providing special  
14 education consulting services to up to 10 supervisory unions, supervisory  
15 districts, or unified union school districts. The Council shall select as member  
16 districts for its study at least three existing supervisory unions or supervisory  
17 districts with an average daily membership of 1,500 students or more and at  
18 least three unified union school districts formed pursuant to 2015 Acts and  
19 Resolves No. 46. In no event shall the Council partner with a district that does  
20 not provide an equivalent match equal to 50 percent of the value of the  
21 Council's services to the district; the other 50 percent being funded by the

1 appropriation provided in this section. The Council shall present a final report  
2 with recommendations on the delivery of special education services to the  
3 General Assembly and the Agency of Education on or before October 1, 2017.  
4 The Council shall provide any and all research and data compiled during the  
5 course of its work pursuant to this section to the Agency of Education.

6 \* \* \* Agency of Education Special Education Staff \* \* \*

7 Sec. 4. CREATION OF AGENCY OF EDUCATION STAFF POSITION

8 There is established one (1) new [exempt] position—[NAME OF  
9 POSITION]—in the Agency of Education. The [NAME OF POSITION] shall  
10 work in the area of special education and shall initially work with the University  
11 of Vermont and the District Management Council in coordinating and assisting  
12 their work pursuant to Sec. 3 of this act and this section.

13 [NOTE THAT IN THE EVENT APPROPRIATIONS ARE MADE  
14 FROM THE EDUCATION FUND, SEC. 4025 WOULD NEED TO BE  
15 AMENDED TO REFLECT THOSE PAYMENTS]

16 \* \* \* Effective Date \* \* \*

17 Sec. 5. EFFECTIVE DATE

18 Sections 2, 3, 4 and 5 of this act shall take effect on July 1, 2016. Section 1  
19 of this act shall take effect on July 1, 2017.