

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

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

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

3 [NOTE—TO BE CONSIDERED FURTHER—1) ANY IMPACT ON TAX  
4 RATES; 2) WHETHER SUPERVISORY UNIONS SHOULD BE REQUIRED  
5 TO PASS ON SPECIAL EDUCATION FUNDING TO MEMBER DISTRICTS  
6 AND IF SO IN WHAT AMOUNT; 3) TIMING OF CHANGE IN PAYMENTS  
7 FROM DISTRICTS TO SUPERVISORY UNIONS]

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

9 CHAPTER 101. SPECIAL EDUCATION

10 Subchapter 1. General Provisions

11 \* \* \*

12 § 2948. STATE AID

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

15 (b) [Repealed.]

16 (c) Each ~~school district~~ supervisory union shall receive an essential early  
17 education grant each school year. Grants shall be distributed according to the  
18 estimated number of children from three through five years of age. The State  
19 Board by rule shall encourage coordination of services and may set other terms  
20 of the grant. Each school district within a supervisory union shall be  
21 responsible for the remainder of the costs of providing necessary services  
22 under section 2956 of this title. Annually, for each following fiscal year, the

1 essential early education grant shall be increased by the most recent cumulative  
2 price index, as of November 15, for State and local government purchases of  
3 goods and services from fiscal year 2002 through that following fiscal year, as  
4 provided through the State's participation in the New England Economic  
5 Project.

6 (d), (e) [Repealed.]

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

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

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

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

4 (l) [Repealed.]

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

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

13 § 2949. RECIPROCAL AGREEMENTS WITH OTHER STATES

14 \* \* \*

15 § 2950. STATE-PLACED STUDENTS

16 (a) ~~School district~~ Supervisory Union reimbursement. The supervisory  
17 union in which there is a school district responsible for educating a  
18 State-placed student under section 1075 of this title may claim and the  
19 Secretary shall reimburse 100 percent of all special education costs for the  
20 student, including costs for mainstream services. As a condition of receiving  
21 this reimbursement, the ~~district~~ supervisory union shall provide documentation

1 in support of its claim, sufficient to enable the Secretary to determine whether  
2 to recommend appropriate cost-saving alternatives. The Secretary may  
3 approve any costs incurred in educating a State-placed student who is not  
4 eligible for special education that are incurred due to the special needs of the  
5 student, and, if approved, the Secretary shall pay those costs. When a State  
6 agency places and registers a student in a new district, the district and the  
7 supervisory union of which it is a member may request and the Agency of  
8 Education, or the agency that placed the student, or both, shall provide prompt  
9 consultative and technical assistance to the receiving district and the  
10 supervisory union.

11 \* \* \*

12 § 2957. SPECIAL EDUCATION ADMINISTRATIVE AND JUDICIAL  
13 APPEALS; LIMITATIONS

14 \* \* \*

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

1 § 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL  
2 PLACEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

9 § 2959. RULEMAKING; MEDIATION

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

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

18 § 2959a. EDUCATION MEDICAID RECEIPTS

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



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

2 It is further the intent that:

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

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

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

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

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

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

18 (e) ~~School districts~~ Supervisory unions shall use funds received under this  
19 section to pay for reasonable costs of administering the Medicaid claims  
20 process, and for prevention and intervention programs in prekindergarten  
21 through grade 12. The programs shall be designed to facilitate early

1 identification of and intervention with children with disabilities and to ensure  
2 all students achieve rigorous and challenging standards approved and adopted  
3 by the State Board or locally adopted standards. A ~~school district~~ supervisory  
4 union shall provide annual written justification to the Secretary of Education of  
5 the use of the funds. Such annual submission shall show how the funds' use is  
6 expressly linked to those provisions of the ~~school district's~~ supervisory union's  
7 action plan that directly relate to improving student performance. A ~~school~~  
8 ~~district~~ supervisory union shall include in its annual report the amount of the  
9 prior year's Medicaid reimbursement revenues and the use of Medicaid funds  
10 consistent with the purposes set forth in this subsection.

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

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

19 \* \* \*

1 Subchapter 2. Aid for Special Education and Support Services

2 § 2961. STANDARD MAINSTREAM BLOCK GRANTS

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

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

15 (c) As used in this section:

16 (1) "Mainstream salary standard" means:

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

20 (B) ~~its share, prorated according to average daily membership among~~  
21 ~~the member districts of the supervisory union,~~ of an amount equal to the

1 average special education administrator salary in the State for the preceding  
2 year, plus, for any supervisory union ~~or supervisory district~~ with more than  
3 1,500 average daily membership, ~~the school district's prorated share of a~~  
4 fraction of an additional full-time equivalent salary for a special education  
5 administrator, the numerator of which is the average daily membership in the  
6 supervisory union ~~or supervisory district~~ minus 1,500, and the denominator of  
7 which is the average daily membership in the largest supervisory union ~~or~~  
8 ~~supervisory district~~ in the State minus 1,500.

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

11 (d) If in any fiscal year, a ~~district that maintains a school~~ supervisory union  
12 in which a school is maintained does not expend an amount equal to the pro  
13 rata portion of its mainstream salary standard attributable to the district in  
14 which the school is maintained on special education expenditures for that  
15 district, the supervisory union shall permit that district may to expend the  
16 balance, including the matching funds, to provide support and remedial  
17 services pursuant to section 2902 or 2903 of this title. A district supervisory  
18 union choosing to expend funds in this way shall submit a report describing the  
19 services provided and their costs with the final financial report submitted under  
20 section 2968 of this title. **[CONSIDER WHETHER REVISED WORDING**  
21 **WORKS]**

1 § 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

2 (a) Except as otherwise provided in this subchapter, extraordinary services  
3 reimbursement shall be payable to each ~~town school district, city school~~  
4 ~~district, union school district, unified union school district, incorporated school~~  
5 ~~district, the member school districts of an interstate school district, and~~  
6 ~~unorganized town or gore~~ supervisory union.

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

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

18 (d) [Repealed.]

19 § 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

20 (a) Each ~~town school district, city school district, union school district,~~  
21 ~~unified union school district, incorporated school district, the member school~~

1 ~~districts of an interstate school district, and unorganized town or gore~~  
2 supervisory union shall receive a special education expenditures  
3 reimbursement grant each school year.

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

7 \* \* \*

8 § 2963a. EXCEPTIONAL CIRCUMSTANCES

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

12 (1) Costs not eligible for reimbursement under section 2962 of this title  
13 for each student causing the ~~school district~~ supervisory union to be eligible for  
14 extraordinary services reimbursement pursuant to that section. However, in  
15 order for a ~~school district~~ supervisory union to be eligible for reimbursement  
16 under this section, the total costs of the ~~district~~ supervisory union eligible for  
17 extraordinary services reimbursement must equal or exceed 15 percent of the  
18 total costs eligible for ~~state~~ State assistance under sections 2961, 2962, and  
19 2963 of this title.

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

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

11          § 2964. SERVICE PLAN

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

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



1 § 2965. WITHHOLDING OF AID

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

8 § 2967. AID PROJECTION; STATE SHARE

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

16 \* \* \*

17 § 2968. REPORTS

18 (a) On or before November 15, March 15, and August 1 of each school  
19 year, each supervisory union ~~and school district~~ shall file a financial report  
20 with the Secretary in a form prescribed by the Secretary. The report shall  
21 describe total expenditures for special education actually incurred during the

1 preceding period, and shall describe revenues derived from different funding  
2 sources, including federal assistance, State assistance under this ~~section~~  
3 chapter, and local effort.

4 (b) If a supervisory union ~~or school district~~ fails to file a complete report by  
5 August 1, until the properly completed August 1 report is filed and accepted by  
6 the Secretary, the Secretary may withhold any funds due the supervisory union  
7 ~~or school district~~ its member school districts under this title and shall subtract  
8 \$100.00 per business day from funds due to the supervisory union or school  
9 ~~district~~ districts under this title for that fiscal year. The Secretary may waive  
10 the \$100.00 penalty required under this subsection upon appeal by the  
11 supervisory union ~~or school district~~. The Secretary shall establish procedures  
12 for administration of this subsection.

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

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

1 § 2969. PAYMENTS

2 (a) On or before August 15, December 15, and April 15 of each school  
3 year, the State Treasurer shall withdraw from the Education Fund, based on  
4 warrant of the Commissioner of Finance and Management, and shall forward  
5 to each ~~school district~~ supervisory union, the amount of State assistance  
6 estimated in accordance with State Board rules to be necessary to fund sections  
7 2961 through 2963a of this title in the current fiscal period. The State Board  
8 shall by rule ensure that the amount of such assistance shall be adjusted to  
9 compensate for any overpayments or underpayments determined, after review  
10 and acceptance of the reports submitted under section 2968 of this title, to have  
11 been made in previous periods. Notwithstanding this subsection, failure to  
12 submit the reports within the timelines established by subsection 2968(a) of  
13 this title shall result in the withholding of any payments until the report is filed.

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

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

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

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

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

15 §§ 2970, 2971. [RESERVED FOR FUTURE USE.].

16 \* \* \*

17 § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

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

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

4           (3) results for special education students;

5           (4) the availability of special education staff;

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (7) any other factors affecting its spending.

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

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

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

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

20 (1) If the ~~district~~ supervisory union fails to make satisfactory progress,  
21 the Secretary shall notify the ~~district~~ supervisory union that, in the ensuing

1 school year, the Secretary shall withhold 10 percent of the ~~district's~~  
2 supervisory union's special education expenditures reimbursement pending  
3 satisfactory compliance with the plan.

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

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

16 (g) Within 10 days after receiving the Secretary's notice under subdivision  
17 (f)(1) of this section, the ~~district~~ supervisory union may challenge the  
18 Secretary's decision by filing a written objection to the State Board outlining  
19 the reasons the ~~district~~ supervisory union believes it made satisfactory progress  
20 on the remediation plan. The Secretary may file a written response within 10  
21 days after the ~~district's~~ supervisory union's objection is filed. The State Board



1 may give the ~~district~~ supervisory union and the Secretary an opportunity to be  
2 heard. The State Board's decision shall be final. The State shall withhold no  
3 portion of the ~~district's~~ supervisory union's reimbursement before the State  
4 Board issues its decision under this subsection.

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

8 § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL  
9 ASSISTANCE

10 The Secretary may use up to two percent of the funds appropriated for  
11 special education expenditures, as that term is defined in subsection 2967(b) of  
12 this title, to directly assist ~~school-districts~~ supervisory unions with special  
13 education expenditures of an unusual or unexpected nature. These funds shall  
14 not be used for exceptional circumstances that are funded under section 2963a  
15 of this title. The Secretary's decision regarding a ~~district's~~ supervisory union's  
16 eligibility for and amount of assistance shall be final.

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

18 Sec. 2. APPROPRIATION TO THE UNIVERSITY OF VERMONT TO  
19 STUDY THE CENSUS BLOCK MODEL OF FUNDING

20 The sum of \$            is appropriated from the [Education/General] Fund in  
21 fiscal year 2017 to the University of Vermont for the purpose of research and

1 development regarding special education funding and practice. Any  
2 application of funds by the University for the purpose of administrative  
3 overhead shall be capped at five percent of the total sum appropriated pursuant  
4 to this section. The University shall evaluate the feasibility of implementing  
5 the census block model of funding for special education in Vermont, including  
6 the advantages, disadvantages, and policy considerations. The University shall  
7 develop a recommendation to use this funding model in Vermont, which shall  
8 be designed to provide incentives for desirable practices and stimulate  
9 innovation in the delivery of services and shall take into account any factors  
10 the University determines relevant. The University shall present its findings  
11 and recommendations to the General Assembly and the Agency of Education  
12 by October 1, 2017. The University shall provide any and all research and data  
13 compiled during the course of its work pursuant to this section to the Agency  
14 of Education.

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

16 Sec. 3. APPROPRIATION TO THE DISTRICT MANAGEMENT COUNCIL  
17 TO PROVIDE CONSULTING SERVICES ON THE DELIVERY OF  
18 SPECIAL EDUCATION SERVICES

19 The sum of up to \$ [REDACTED] is appropriated from the [Education/General Fund]  
20 to the District Management Council for the purpose of providing special  
21 education consulting services to up to 10 supervisory unions, supervisory

1 districts, or unified union school districts. The Council shall select as member  
2 districts for its study at least three existing supervisory unions or supervisory  
3 districts with an average daily membership of 1,500 students or more and at  
4 least three unified union school districts formed pursuant to 2015 Acts and  
5 Resolves No. 46. In no event shall the Council partner with a district that does  
6 not provide an equivalent match equal to 50 percent of the value of the  
7 Council’s services to the district; the other 50 percent being funded by the  
8 appropriation provided in this section. The Council shall present a final report  
9 with recommendations on the delivery of special education services to the  
10 General Assembly and the Agency of Education on or before October 1, 2017.  
11 The Council shall provide any and all research and data compiled during the  
12 course of its work pursuant to this section to the Agency of Education.

13 \* \* \* Agency of Education Special Education Staff \* \* \*

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

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

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

