

# Act 173 of 2018:

enhancing the **effectiveness, availability,**  
and **equity** of services provided to all students who  
require additional support in Vermont's schools.

# Act 173 Overview: Purpose

The purpose of Act 173 of 2018 is to enhance the **effectiveness, availability, and equity** of services provided to all students who require additional support in Vermont's schools.



# Act 173 Overview:

## Who is this law intended to support?



1. Students with an individualized education program (IEP);
2. Students with a 504 plan under the Rehabilitation Act of 1973;
3. Students without an IEP (1) or 504 plan (2) but whose ability to learn is negatively impacted by a disability or by social, emotional, or behavioral needs;
4. Students who are English learners;
5. Students who read below grade level.

# Act 173 Overview:

## Using Research to Inform Legislation

- In 2016, the General Assembly directed the Agency of Education (AOE) to contract for two studies.
  1. [UVM Study](#): To evaluate current special education funding model and recommends a model that provides incentives for desirable practices and stimulates innovation in the delivery of services (2016 Act 148 Sec. 3).
  2. [DMG Report](#): The second study compared current practice to best practices for special education service delivery (2016 Act 148 Sec. 4) in 10 representative Supervisory Unions/Supervisory Districts.

# Act 173 Overview: UVM Study

Stakeholders reported the **current reimbursement funding model** to be:

1. Administratively costly for both the state and local SU/SDs
2. Misaligned with current policy priorities of MTSS and PBIS
3. Incongruent in regards to incentives for identification and placement of students
4. Discouraging of cost containment
5. Unpredictable and lacking transparency



# Act 173 Overview: UVM Study



The **census funding model** supports a system of best practices in the general education classroom, including intervention as needed, over the course of a student's educational experience.

# Act 173 Overview: DMG

The District Management Group (DMG) identified five opportunities for **improving services** and **supports** for students who need additional support:

1. Ensure elementary Tier 1 core instruction meets the needs of most students;
2. Provide additional instructional time outside core subjects aligned to the core instruction, to students who struggle, rather than providing interventions instead of core instruction;
3. Ensure students who struggle receive all instruction from highly skilled teachers;
4. Create or strengthen a systems-wide approach to supporting positive student behaviors based on expert support; and
5. Provide students having more intensive support needs with specialized instruction from skilled and trained experts.

# Act 173 Overview:

## What does the Act Include?

1. Establishment of an Advisory group to shape proposed rules and procedures
2. A several-year transition to the new funding system providing time for rule-making, procedure development and professional learning.
3. Resources to support implementation of the law and professional learning



# Act 173 Overview:

## What's Changing - Funding Model

### Today

The state funds 60% of all special education costs through a combination of grants and reimbursements.

### Future

Starting in Fiscal Year 2021 the State will begin transitioning to a census-based funding model. The fully functional model (FY 2025) will support special education through a grant to each SU in the amount of

- Statewide per student amount multiplied by
- SU/SD 3-year average ADM

# Act 173 Overview:

## What's Changing - Funding Model

- The Vermont Special Education Allowable cost definition has been expanded to reflect *other permissive uses of funds*
  - SU/SDs will first use these funds for services outlined in IEPs and to ensure compliance with IDEA requirements
  - Once all IEP requirements are met, SU/SDs can use the funds to provide services to students who without an IEP or 504 plan who require additional supports
  - Additionally, if while providing services to students with disabilities (pursuant to their IEPs), there are benefits to students without disabilities, these costs may continue to be allocable to the “special education” program
- Extraordinary cost relief will be available for high cost special education students at a new threshold of \$60,000 that will increase annually by inflation

# Act 173 Overview:

## Extraordinary Costs Reimbursement

1. 95% of the amount in excess of the extraordinary threshold, plus
2. The amount equal to or less than...
  - The amount in excess of the extraordinary threshold  
OR
  - 60% x (The difference of the extraordinary threshold and the census block grant base amount)

*\*The extraordinary threshold is \$60K per student in FY 2020, increased annually by NIPA*

# Act 173 Overview:

## What's Changing - Independent Schools

Act 173 also addresses special education costs provided to independent schools.

- Independent schools may bill LEAs for costs required by an IEP that exceed the general tuition rates.
- An LEA may receive extraordinary cost reimbursement if the individual students' special education costs at the independent school exceed the threshold for reimbursement.
- Provisions related to independent schools do not go into effect until July 1, 2022.

# Act 173 Overview:

## What's Not Changing - Funding Model

Some aspects of state special education funding were not addressed by Act 173 and will continue in their current state:

- Annual grant funds for Best/Act 230
- Annual grants for consultants for students with the most significant and complex disabilities, for student that are blind or visually impaired and for students that are deaf or hard of hearing
- Essential Early Education (EEE) grant program that provides SUs with funds for 3-5 year-olds who are eligible for special education (also known as Early Childhood Special Education or ECSE)

# Act 173 Overview: What May Change - Weighting Study

Act 173 directs AOE to contract for a weighting study analyzing factors that should be used to increase the census grant to supervisory unions, based on what may cause an increase in the number of students needing support.

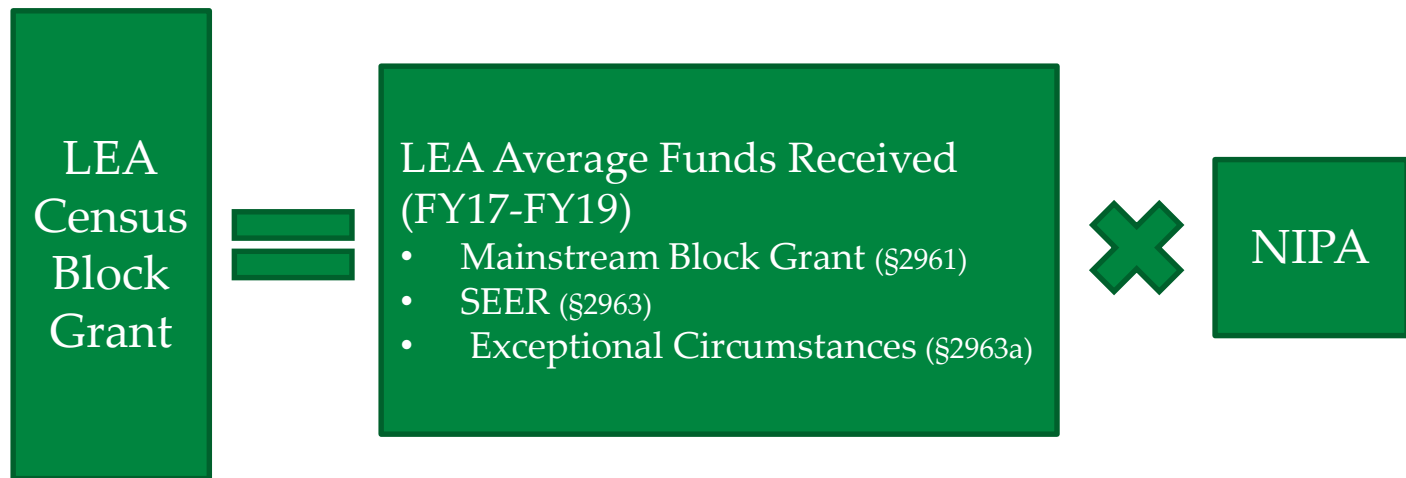
A report of the findings of the study is due to several legislative committees on or before November 1, 2019.



# REMEMBER!

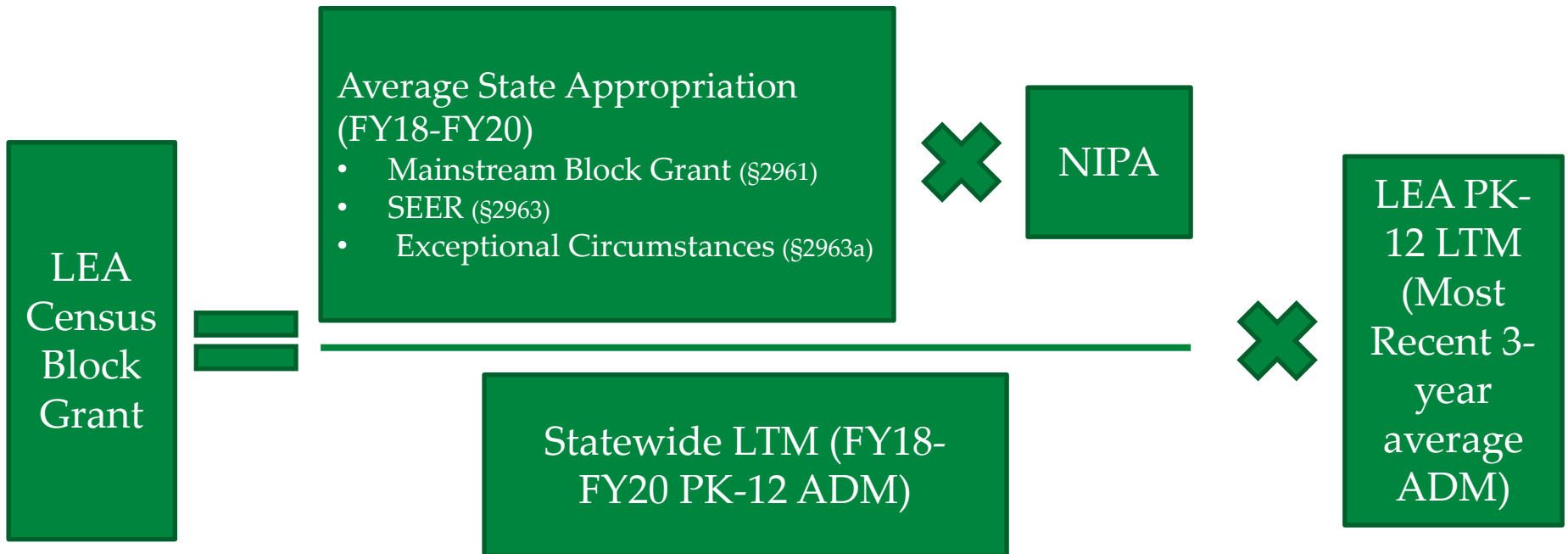
The Census block grant will replace only the historical 60% of special education funding provided by the state

# Census Block Grant Calculation FY21





# Census Block Grant Calculation FY25+



# Act 173 Rulemaking Update

- AOE is working on Drafting Rules for the State Board to consider
- Seeking input from various stakeholders in the field as part of the process
- Working with the Advisory Group on recommendations for Board related to rule making and for General Assembly related to statute

# Proposed Rulemaking Milestones

April 1, 2019: AOE presents the first draft of its rules to the Advisory Committee

**April 17, 2019: AOE presents draft rules to SBE**

April-May, 2019: AOE files proposed rules with ICAR after SBE approval

May, 2019: AOE files proposed rules with the Secretary of State after ICAR approval

**May-August, 2019: Public Comment on proposed rules**

August, 2019: Present final proposed rules to the SBE

September, 2019: AOE files proposed rules w LCAR and Secretary of State

October 15, 2019: AOE files adopted rules with Secretary of State

# Overall Structure

- Special Education Rules
- Census-Based Funding Rules
- Independent School Rules

# Special Education Rules

- Part B entitlement rules will remain unchanged, but will be reviewed again after the new funding rules have been developed to determine if there are any inconsistencies.
- Existing funding rules (Rule 2366) will be separated from the body of Special Education rules. New census-based funding rules and revisions to existing rules within Rule 2366 will be promulgated as a separate body of rules.

# Census-Based Funding Rules

- Maintaining funding rules independent of programmatic rules will allow easier future revision to either body.
- Clear and concise rules in conjunction with well-developed policies and procedures will enhance the flexibility of funding and spending as envisioned by the Act.

# Independent School Rules

- The Advisory Group will recommend to the General Assembly amend this part of Act 173
- Under the Advisory Group construct, Special Education at large independent schools would be funded similarly to public schools under the new law, and small schools would be funded through a reimbursement construct.