

S.122

An act relating to increased flexibility for school district mergers

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

\* \* \* Findings \* \* \*

Sec. 1. FINDINGS

(a) 2015 Acts and Resolves No. 46 established a multi-year, phased process that provides multiple opportunities for school districts to unify existing governance units into more “sustainable governance structures” designed to meet the General Assembly’s identified educational and fiscal goals while recognizing and reflecting local priorities. It has been the General Assembly’s intent to revitalize Vermont’s small schools – to promote equity in their offerings and stability in their finances – through these changes in governance.

(b) As of Town Meeting Day 2017, voters in 96 Vermont towns have voted to merge 104 school districts into these slightly larger, more sustainable governance structures, resulting in the creation of 20 new unified union districts (serving prekindergarten–grade 12 students). As a result, approximately 60 percent of Vermont’s school-age children live or will soon live in districts that satisfy the goals of Act 46.

(c) These slightly larger, more flexible unified union districts have begun to realize distinct benefits, including the ability to offer kindergarten–grade 8 choice among elementary schools within the new district boundaries; greater

flexibility in sharing students, staff, and resources among individual schools;  
the elimination of bureaucratic redundancies; and the flexibility to create  
magnet academies, focusing on a particular area of specialization by school.

(d) Significant areas of the State, however, have experienced difficulty  
satisfying the goals of Act 46. The range of complications is varied, including  
operating or tuitioning models that differ among adjoining districts, geographic  
isolation due to lengthy driving times or inhospitable travel routes between  
proposed merger partners, and greatly differing levels of debt per equalized  
pupil between districts involved in merger study committees. This act is  
designed to make useful changes to the merger time lines and allowable  
governance structures under Act 46 without weakening or eliminating the  
Act's fundamental phased merger and incentive structures and requirements.

\* \* \* Side-by-Side Structures \* \* \*

Sec. 2. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION

DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) of No.  
153 of the Acts of the 2009 Adj. Sess. (2010) that requires a single regional  
education district ("RED") to have an average daily membership of at least  
1,250 or result from the merger of at least four districts, or both, two or more

new districts shall be eligible jointly for the incentives provided in ~~Sec. 4 of~~  
No. 153, Sec. 4 if:

\* \* \*

(3) ~~one of the new districts provides education in all elementary and  
secondary grades by operating one or more schools and the other new district  
or districts pay tuition for students in one or more grades; each new district has  
a model of operating schools or paying tuition that is different from the model  
of the other, which may include:~~

(A) operating a school or schools for all resident students in  
prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some  
grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students  
in prekindergarten through grade 12;

\* \* \*

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 3. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; REGIONAL  
EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that  
requires a single regional education district (RED) to have an average daily  
membership of at least 1,250 or result from the merger of at least four districts,

or both, a new district shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with an existing district (Existing District), are members of the same supervisory union following the merger (Three-by-One Side-by-Side Structure).

(2) As of March 7, 2017 (Town Meeting Day), the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education;

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; or

(C) unable to reach agreement to consolidate with one or more other adjoining school districts because the school districts that adjoin the Existing District have greatly differing levels of indebtedness per equalized pupil, as defined in 16 V.S.A. § 4001(3), from that of the Existing District as determined by the State Board of Education.

(3) The Merged District and the Existing District each has a model of operating schools or paying tuition that is different from the model of the other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Three-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The districts seeking approval of their proposed Three-by-One Side-by-Side Structure demonstrate in their report presented to the State Board that this structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in Sec. 2 of that Act.

(6) The districts proposing to merge into the Merged District receive final approval from their electorate for the merger proposal on or before

November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

(b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to the Merged District and shall not be available to the Existing District.

(c) The Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's plan.

Sec. 4. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;

REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an existing (Existing District), are members of the same supervisory union following the merger (Two-by-Two-by-One Side-by-Side Structure).

(2) As of March 7, 2017 (Town Meeting Day), the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education;

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; or

(C) unable to reach agreement to consolidate with one or more other adjoining school districts because the school districts that adjoin the Existing District have greatly differing levels of indebtedness per equalized pupil, as defined in 16 V.S.A. § 4001(3), from that of the Existing District as determined by the State Board of Education.

(3) Each Merged District and the Existing District has a model of operating schools or paying tuition that is different from the model of each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The districts seeking approval of their proposed Two-by-Two-by-One Side-by-Side Structure demonstrate in their report presented to the State Board that this structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in Sec. 2 of that act.

(6) Each Merged District has the same effective date of merger.

(7) The districts proposing to merge into each Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to each Merged District and shall not be available to the Existing District.

(c) The Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal

to the Secretary of Education and State Board of Education and from the State Board's plan.

\* \* \* Withdrawal from Union School District \* \* \*

Sec. 5. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION  
SCHOOL DISTRICT

(a) Notwithstanding any provision of 16 V.S.A. § 721a to the contrary, a school district may withdraw from a union high school district without approval by the remaining members of the union high school district upon the following conditions:

(1) The school district proposing to withdraw from the union high school district operates a school or schools for all resident students in prekindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12.

(2) At least one year has elapsed since the union high school district became a body politic and corporate as provided in 16 V.S.A. § 706g.

(3) A majority of the voters of the school district proposing to withdraw from the union high school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from the union high school district. The clerk of the school district shall certify the vote to the Secretary of State, who shall record the certificate in his or her office and shall

give notice of the vote to the Secretary of Education and to the other members of the union high school district.

(4) The State Board approves the withdrawal based on a recommendation from the Secretary of Education.

(5) The withdrawal process is completed on or before July 1, 2019.

(b) In making his or her recommendation, the Secretary of Education shall assess whether:

(1) students in the withdrawing school district would attend a school that complies with the rules adopted by the State Board pertaining to educational programs; and

(2) it is in the best interests of the State, the students, and the districts remaining in the union high school district for the union to continue to exist.

(c) The State Board shall:

(1) consider the recommendation of the Secretary and any other information it deems appropriate;

(2) hold a public meeting within 60 days of receiving the recommendation of the Secretary, and provide due notice of this meeting to the Secretary and all members of the union high school district;

(3) within 10 days of the meeting, notify the Secretary and all members of the union high school district of its decision;

(4) if it approves the withdrawal, declare the membership of the withdrawing school district in the union high school district terminated as of July 1 immediately following, or as soon after July 1 as the financial obligations of the withdrawing school district have been paid to, or an agreement has been made with, the union high school district in an amount to satisfy those obligations; and

(5) file the declaration with the Secretary of State, the clerk of the withdrawing school district, and the clerk of the union high school district concerned.

Sec. 6. REPEAL

Sec. 5 of this act is repealed on July 2, 2019.

\* \* \* Time Extension for Qualifying Districts \* \* \*

Sec. 7. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) ~~On~~ Subject to subsection (b) of this section, on or before November 30, 2017, the board of each school district in the State that:

(1) has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019; or

(2) does not qualify for an exemption under Sec. 10(c) of this act, shall perform each of the following actions-;

~~(1)~~(A) Self-evaluation. The board shall evaluate its current ability to meet or exceed each of the goals set forth in Sec. 2 of this act.

~~(2)~~(B) Meetings.

~~(A)~~(i) The board shall meet with the boards of one or more other districts, including those representing districts that have similar patterns of school operation and tuition payment, to discuss ways to promote improvement throughout the region in connection with the goals set forth in Sec. 2 of this act.

~~(B)~~(ii) The districts do not need to be contiguous and do not need to be within the same supervisory union.

~~(3)~~(C) Proposal. The board of the district, solely on behalf of its own district or jointly with the boards of other districts, shall submit a proposal to the Secretary of Education and the State Board of Education in which the district:

~~(A)~~(i) proposes to retain its current governance structure, to work with other districts to form a different governance structure, or to enter into another model of joint activity;

~~(B)~~(ii) demonstrates, through reference to enrollment projections, student-to-staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the proposal in subdivision ~~(A)~~(i) of this

subdivision ~~(3)~~(C) supports the district's or districts' ability to meet or exceed each of the goals set forth in Sec. 2 of this act; ~~and~~

~~(C)~~(iii) identifies detailed actions it proposes to take to continue to improve its performance in connection with each of the goals set forth in Sec. 2 of this act; and

(iv) describes its history of merger, consolidation, or other models of joint activity with other school districts before the enactment of this act, and its consideration of merger, consolidation, or other models of joint activity with other school districts on or after the enactment of this act.

(b) The date by which a qualifying district must take the actions required by subsection (a) of this section is extended from November 30, 2017 to January 31, 2018. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

Sec. 8. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a qualifying district must receive final approval from the electorate for its merger proposal is extended from July 1, 2017 to November 30, 2017. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

\* \* \* Grants and Fee Reimbursement \* \* \*

Sec. 9. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

Sec. 7. SCHOOL DISTRICTS CREATED AFTER DEADLINE FOR  
ACCELERATED ACTIVITY; TAX INCENTIVES; SMALL  
SCHOOL SUPPORT; JOINT CONTRACT SCHOOLS

\* \* \*

(b) A newly formed school district that meets the criteria set forth in subsection (a) of this section shall receive the following:

\* \* \*

(3) Transition Facilitation Grant.

(A) After voter approval of the plan of merger, notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the transitional board of the new district a Transition Facilitation Grant from the Education Fund equal to the lesser of:

(i) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(ii) \$150,000.00.

(B) A Transition Facilitation Grant awarded under this subdivision (3) shall be reduced by the total amount of reimbursement paid for consulting services, analysis, and transition costs pursuant to 2012 Acts and Resolves No. 156, Secs. 2, 4, and 9.

\* \* \*

(e) Notwithstanding the requirement in subdivision (a)(3) of this section that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under this section even if

it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

Sec. 10. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;  
MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district ~~and~~, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

\* \* \*

Sec. 11. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE  
STRUCTURES; PROPOSAL; FINAL PLAN

\* \* \*

(d)(1) The Secretary of Education shall make a supplemental Transitional Facilitation Grant of \$10,000.00 to a school district that:

(A) has received or is eligible to receive tax incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended (a qualifying school district); and

(B) either on its own initiative or at the request of the State Board, agrees by vote of its electorate to merge with another school district (a qualifying merger).

(2) A qualifying school district shall use the grant funding to defray the cost of integration. The Secretary shall pay the grant amount to a qualifying school district for each qualifying merger with a school district even if multiple qualifying mergers are effective on the same date. The Secretary shall pay the grant amount not later than 30 days after all required approvals are obtained.

(3) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the supplemental Transition Facilitation Grant from the Education Fund.

(4) The supplemental Transition Facilitation Grant shall be available for a qualifying merger initiated by a qualifying school district only if the merger is scheduled to take effect on or before November 30, 2018.

\* \* \* Applications for Adjustments to Supervisory Union Boundaries \* \* \*

Sec. 12. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY

UNIONS

(a) The State Board shall review on its own initiative or when requested as per subsection (b) of this section and may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

(b)(1) Any school district that has so voted at its annual school district meeting, if said meeting has been properly warned regarding such a vote, may request that the State Board adjust the existing boundaries of the supervisory union of which it is a member district.

(2) Any group of school districts that have so voted at their respective annual school district meeting, regardless of whether the districts are members of the same supervisory union, may request that the State Board adjust existing supervisory union boundaries and move one or more nonrequesting districts to a different supervisory union if such adjustment would assist the requesting districts to realign their governance structures into a unified union school district pursuant to chapter 11 of this title.

(3) The State Board shall ~~give timely consideration to requests~~ act on a request made pursuant to this subsection within 75 days of receipt of the

request and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

\* \* \*

\* \* \* Technical Corrections; Clarifications \* \* \*

Sec. 13. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL  
EDUCATION DISTRICT INCENTIVES

\* \* \*

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 14. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

\* \* \*

(d) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 15. AVAILABILITY OF TAX AND OTHER INCENTIVES

The tax and other incentives under 2010 Acts and Resolves No. 153, as amended, and 2012 Acts and Resolves No. 156, as amended, shall be available only if the new governance structure formed under those acts becomes fully operational on or before July 1, 2019.

Sec. 16. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. DECLINING ENROLLMENT; TRANSITION

(a) If a district's equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 22 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district's equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district's equalized pupils shall in no case be less than 90 percent of the district's equalized pupils in the previous year; and

(2) in fiscal year 2018, the district's equalized pupils shall in no case be less than 80 percent of the district's equalized pupils in the previous year.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection (c) if on or before July 1, 2016, it has formed a study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22

of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

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

Sec. 17. EFFECTIVE DATE

This act shall take effect on passage.