

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; increased flexibility for school district mergers; State

4 Board of Education

5 Statement of purpose of bill as introduced: This bill proposes to: (1) provide
6 greater flexibility for school district consolidation by providing tax incentives
7 for a side-by-side regional educational district structure where one side does
8 not operate all elementary and secondary grades; (2) provide greater flexibility
9 for school district consolidation by providing tax incentives for a side-by-side
10 regional educational district structure where three or more school districts
11 merge and the newly merged district, together with a preexisting district, are
12 members of the same supervisory union at the completion of the process; (3)
13 provide greater flexibility for a school district that meets certain conditions to
14 withdraw from a union school district without approval by the remaining
15 members of the union school district; (4) extend the final date for voter
16 approval of a merger and the date by which a school district is required to
17 make a governance proposal to the Secretary of Education for a school district
18 that has previously had a merger proposal rejected by voters or wishes to add a
19 new school district as a member of its study committee; (5) provide transition
20 facilitation grants to all school districts that consolidate into a preferred
21 governance structure and to a district that has consolidated and, at the request

1 of the State Board of Education, merges with another district; (6) allow fees for
2 consulting services to be used by a study committee recommending
3 consolidation for the cost of community outreach; (7) require the State Board
4 of Education to act on applications for supervisory union adjustments within
5 60 days of receipt; (8) make certain technical and clarifying changes; (9)
6 eliminate the authority of the State Board of Education to propose candidates
7 to the Governor for the office of Secretary of Education; (10) require that one
8 member of the State Board of Education be a representative of an approved
9 independent school; (11) reduce the term of office of the members of the State
10 Board of Education from six years to four years; (12) clarify the State Board of
11 Education’s authority to adopt rules for the approval of independent schools;
12 (13) nullify the proposed amendments to the rules governing approval of
13 independent schools initiated by the State Board of Education on
14 November 13, 2015; and (14) create a study committee to consider and make
15 recommendations on the criteria to be used by the State Board of Education for
16 the approval of an independent school.

17 An act relating to increased flexibility for school district mergers and to the
18 State Board of Education

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

2 * * * Findings * * *

3 Sec. 1. FINDINGS

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

11 (b) As of Town Meeting Day 2017, nearly 60 Vermont towns have voted to
12 merge nearly 70 school districts into these slightly larger, more sustainable
13 governance structures, resulting in the creation of 14 unified union districts
14 (serving prekindergarten–grade 12 students). Currently, roughly one-half of
15 Vermont’s school-age children live in districts that satisfy the goals of Act 46.

16 (c) These slightly larger, more flexible unified union districts have begun to
17 realize distinct benefits, including the ability to offer kindergarten–grade 8
18 choice among elementary schools within the new district boundaries; greater
19 flexibility in sharing students, staff, and resources among individual schools;
20 the elimination of bureaucratic redundancies; and the flexibility to create
21 magnet academies, focusing on a particular area of specialization by school.

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

5 (2) The Existing District is either:

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

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

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

17 (3) The Merged District and the Existing District each has a model of
18 operating schools or paying tuition that is different from the model of the
19 other, which may include:

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

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

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

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

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

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

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

1 vote to the Secretary of Education and to the other members of the union
2 school district.

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

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

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

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

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

13 (c) The State Board shall:

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

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

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

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

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

10 Sec. 5. REPEAL

11 Sec. 4 of this act is repealed on July 2, 2019.

12 * * * Time Extension for Qualifying Districts * * *

13 Sec. 6. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

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

15 (a) ~~On~~ Subject to subsection (b) of this section, on or before November 30,
16 2017, the board of each school district in the State that:

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

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

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(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; or

(2) if a member of a study committee formed under 16 V.S.A. § 706 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.

Sec. 7. 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; or

(2) if a member of a study committee formed under 16 V.S.A. § 706, provides to the Secretary a declaration that another school district wants to join

1 the district's study committee, signed by each member of the study committee
2 and the district that proposes to join the study committee.

3 * * * Grants and Fee Reimbursement * * *

4 Sec. 8. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

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

8 * * *

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

11 * * *

12 (3) Transition Facilitation Grant.

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

17 (i) five percent of the base education amount established in
18 16 V.S.A. § 4001(13) multiplied by the greater of either the combined
19 enrollment or the average daily membership of the merging districts on
20 October 1 of the year in which the successful vote is taken; or

21 (ii) \$150,000.00.

1 to those that are reasonably designed to inform, educate, and explain to the
2 electorate a study committee’s position on the matter.

3 * * *

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

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

7 * * *

8 (d) A school district that has received or is eligible to receive tax incentives
9 under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or
10 2015 Acts and Resolves No. 46, and that, at the request of the State Board,
11 agrees by vote of its electorate to merge with another school district, shall
12 receive a supplemental Transitional Facilitation Grant of \$10,000.00 to defray
13 the costs of integration. Notwithstanding any provision to the contrary in
14 16 V.S.A. § 4025, the Secretary of Education shall pay the board of the school
15 district the supplemental Transition Facilitation Grant from the Education
16 Fund.

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

18 Sec. 11. 16 V.S.A. § 261 is amended to read:

19 § 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY
20 UNIONS

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

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

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

18 (3) The State Board shall ~~give timely consideration to requests~~ act on a
19 request made pursuant to this subsection within 60 days of receipt of the
20 request and may regroup the school districts of the area so as to ensure
21 reasonable supervision of all public schools therein.

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* * * Technical Corrections; Clarifications * * *

Sec. 12. 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. 13. 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. 14. 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. 15. 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.

1 (b) If a district’s equalized pupils in fiscal year 2016 reflect adjustment
2 pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of
3 § 4010(f) as amended by this act:

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

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

8 (c) Notwithstanding the provisions of subsections (a) and (b) of this
9 section, if a district is actively engaged in merger discussions with one or more
10 other districts regarding the formation of a regional education district (RED) or
11 other form of unified union school district pursuant to 16 V.S.A. chapter 11,
12 then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after,
13 and each of the dates in subsection (b) of this section shall be adjusted
14 accordingly. A district shall be “actively engaged in merger discussions”
15 pursuant to this subsection (c) if on or before July 1, 2016, it has formed a
16 study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22
17 of this act shall apply to the district, the district’s equalized pupil count shall be
18 calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

19 * * * State Board of Education * * *

20 Sec. 16. 3 V.S.A. § 2702 is amended to read:

21 § 2702. SECRETARY OF EDUCATION

1 (a) With the advice and consent of the Senate, the Governor shall appoint a
2 Secretary of Education ~~from among no fewer than three candidates proposed~~
3 ~~by the State Board of Education~~. The Secretary shall serve at the pleasure of
4 the Governor.

5 (b) The Secretary shall report directly to the Governor and shall be a
6 member of the Governor’s Cabinet.

7 (c) At the time of appointment, the Secretary shall have expertise in
8 education management and policy and demonstrated leadership and
9 management abilities.

10 Sec. 17. 16 V.S.A. § 161 is amended to read:

11 § 161. STATE BOARD OF EDUCATION; APPOINTMENT OF
12 MEMBERS; TERM; VACANCY

13 The State Board shall consist of ten members. Two of the members shall be
14 secondary students, one of whom shall be a full member and the other of
15 whom shall be a junior member who may not vote. One of the members shall
16 be a representative of an independent school. All members shall be appointed
17 by the Governor with the advice and consent of the Senate. In the appointment
18 of the nonstudent members, priority shall be given to the selection of persons
19 with a demonstrated commitment to ensuring quality education for Vermont
20 students. To the extent possible, the members shall represent geographically

1 diverse areas of the State. The Secretary shall serve on the State Board as a
2 nonvoting member.

3 (1) Upon the expiration of the respective terms of those members of the
4 Board previously appointed, excluding the student members, the Governor
5 shall, biennially in the month of February with the advice and consent of the
6 Senate, appoint members ~~thereto~~ to the Board for terms of ~~six~~ four years. The
7 terms shall begin March 1 of the year in which the appointments are made. A
8 member serving a term of six years two full terms shall not be eligible for
9 reappointment for successive terms.

10 (2) In the event of any vacancy occurring in the membership of the
11 Board, the Governor shall fill the vacancy with a qualified person whose
12 appointment shall be for the unexpired portion of the term.

13 (3) Biennially, the Board shall choose a member of the Board to be its
14 chair.

15 (4) Annually, using an application process that is open and accessible to
16 all eligible students, the Governor shall appoint a Vermont secondary school
17 student who will continue to be a secondary student for at least two years
18 following taking office, to serve on the State Board for two years, beginning on
19 July 1 of the year of appointment. The student member shall not vote during
20 the first year and shall be a full and voting member during the second year of
21 his or her term.

1 (2) one current members of the Senate who shall be appointed by the

2 Committee on Committees;

3 (3) the chair of the State Board of Education or designee;

4 (4) the Secretary of Education or designee;

5 (5) the Executive Director of the Vermont Superintendent’s Association
6 or designee;

7 (6) the Executive Director of the Vermont School Boards Association or
8 designee;

9 (7) the Executive Director of the Vermont Independent Schools
10 Association or designee; and

11 (8) two representatives of approved independent schools, who shall be
12 chosen by the Executive Director of the Vermont Independent Schools
13 Association.

14 (c) Powers and duties. The Committee shall consider and make
15 recommendations on the criteria to be used by the State Board of Education for
16 designation as an “approved” independent school, including the following
17 criteria:

18 (1) the school’s enrollment policy and any limitation on a student’s
19 ability to enroll;

20 (2) whether the school should be required to offer special education
21 services, and if so, which categories of these services; and

1 (3) the scope and nature of financial information that should be required
2 to be reported by the school to the State Board or Agency of Education.

3 (d) Assistance. The Committee shall have the administrative, technical,
4 and legal assistance of the Agency of Education.

5 (e) Report. On or before January 15, 2018, the Committee shall submit a
6 written report to the House and Senate Committees on Education with its
7 findings and any recommendations.

8 (f) Meetings.

9 (1) The Secretary of Education shall call the first meeting of the
10 Committee to occur on or before May 30, 2017.

11 (2) The Committee shall select a chair from among its members at the
12 first meeting.

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

14 (4) The Committee shall cease to exist on January 16, 2018.

15 (g) Reimbursement.

16 (1) For attendance at meetings during adjournment of the General
17 Assembly, legislative members of the Committee shall be entitled to per diem
18 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
19 no more than seven meetings.

20 (2) Other members of the Committee who are not employees of the State
21 of Vermont and who are not otherwise compensated or reimbursed for their

1 attendance shall be entitled to per diem compensation and reimbursement of
2 expenses pursuant to 32 V.S.A. § 1010 for no more than seven meetings.

3 * * * Effective Date * * *

4 Sec. 22. EFFECTIVE DATE

5 This act shall take effect on passage.