

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;  
13 (3) provide greater flexibility for school district consolidation by providing tax  
14 incentives for a side-by-side regional educational district structure where four  
15 or more school districts merge into two new districts and the newly merged  
16 districts, together with a preexisting district, are members of the same  
17 supervisory union at the completion of the process; (4) provide greater  
18 flexibility for a school district that meets certain conditions to withdraw from a  
19 union school district without approval by the remaining members of the union  
20 school district; (5) extend the final date for voter approval of a merger and the  
21 date by which a school district is required to make a governance proposal to

1 the Secretary of Education for a school district that has previously had a  
2 merger proposal rejected by voters or wishes to add a new school district as a  
3 member of its study committee; (6) provide transition facilitation grants to all  
4 school districts that consolidate into a preferred governance structure and to a  
5 district that has consolidated and, at the request of the State Board of  
6 Education, merges with another district; (7) allow fees for consulting services  
7 to be used by a study committee recommending consolidation for the cost of  
8 community outreach; (8) require the State Board of Education to act on  
9 applications for supervisory union adjustments within 60 days of receipt; (9)  
10 make certain technical and clarifying changes; (10) eliminate the authority of  
11 the State Board of Education to propose candidates to the Governor for the  
12 office of Secretary of Education; (11) require that one member of the State  
13 Board of Education be a representative of an approved independent school;  
14 (12) reduce the term of office of the members of the State Board of Education  
15 from six years to four years; (13) clarify the State Board of Education's  
16 authority to adopt rules for the approval of independent schools; (14) nullify  
17 the proposed amendments to the rules governing approval of independent  
18 schools initiated by the State Board of Education on November 13, 2015; and  
19 (15) create a study committee to consider and make recommendations on the  
20 criteria to be used by the State Board of Education for the approval of an  
21 independent school.



1 the elimination of bureaucratic redundancies; and the flexibility to create  
2 magnet academies, focusing on a particular area of specialization by school.

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

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

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

14 Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION  
15 DISTRICT INCENTIVES

16 (a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) of No.  
17 153 of the Acts of the 2009 Adj. Sess. (2010) that requires a single regional  
18 education district (“RED”) to have an average daily membership of at least  
19 1,250 or result from the merger of at least four districts, or both, two or more  
20 new districts shall be eligible jointly for the incentives provided in ~~Sec. 4 of~~  
21 No. 153, Sec. 4 if:

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(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,

1 Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and  
2 Resolves No. 46 if:

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

7 (2) The Existing District is either:

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

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

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

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

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

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

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

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

11           (5) The districts seeking approval of their proposed Three-by-One Side-  
12 by-Side Structure demonstrate in their report presented to the State Board that  
13 this structure is better suited to them than a governance structure described in  
14 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in  
15 Sec. 2 of that act.

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



1           (2) The Existing District is either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8                   (1) The purpose of the withdrawal from the union school district is to  
9           facilitate a merger to satisfy the goals of 2015 Acts and Resolves No. 46, as  
10           determined by the State Board of Education.

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

13                   (3) A majority of the voters of the school district proposing to withdraw  
14           from the union school district present and voting at a school district meeting  
15           duly warned for that purpose votes to withdraw from the union school district.

16           The clerk of the school district shall certify the vote to the Secretary of State,  
17           who shall record the certificate in his or her office and shall give notice of the  
18           vote to the Secretary of Education and to the other members of the union  
19           school district.

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

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

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

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

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

9           (c) The State Board shall:

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

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

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

17           (4) if it approves the withdrawal, declare the membership of the  
18 withdrawing school district in the union school district terminated as of July 1  
19 immediately following, or as soon after July 1 as the financial obligations  
20 of the withdrawing school district have been paid to, or an agreement has

1 been made with, the union school district in an amount to satisfy those  
2 obligations; and

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

6 Sec. 6. REPEAL

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

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

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

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

11 (a) ~~On~~ Subject to subsection (b) of this section, on or before November 30,  
12 2017, the board of each school district in the State that:

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

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

18 \* \* \*

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

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

4           (2) if a member of a study committee formed under 16 V.S.A. § 706  
5           provides to the Secretary a declaration that another school district wants to join  
6           the district’s study committee, signed by each member of the study committee  
7           and the district that proposes to join the study committee.

8           Sec. 8. TIME EXTENSION FOR VOTE OF ELECTORATE

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

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

16           (2) if a member of a study committee formed under 16 V.S.A. § 706,  
17           provides to the Secretary a declaration that another school district wants to join  
18           the district’s study committee, signed by each member of the study committee  
19           and the district that proposes to join the study committee.



1 services, analysis, and transition costs pursuant to 2012 Acts and Resolves  
2 No. 156, Secs. 2, 4, and 9.

3 \* \* \*

4 (e) Notwithstanding the requirement in subdivision (a)(3) of this section  
5 that the newly formed school district be its own supervisory district, the newly  
6 formed school district shall qualify for the incentives under this section even if  
7 it is assigned to a supervisory union by the State Board of Education and that  
8 assignment by the State Board is not made at the request of the school district.

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

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

12 (a) From the ~~education fund~~ Education Fund, the ~~commissioner of~~  
13 ~~education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid  
14 by a study committee established under 16 V.S.A. § 706 for legal and other  
15 consulting services necessary to analyze the advisability of creating a union  
16 school district or a unified union school district, ~~and~~ to prepare the report  
17 required by 16 V.S.A. § 706b, and to conduct community outreach, including  
18 communications with voters. Community outreach materials shall be limited  
19 to those that are reasonably designed to inform, educate, and explain to the  
20 electorate a study committee's position on the matter.

21 \* \* \*

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

2 Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE

3 STRUCTURES; PROPOSAL; FINAL PLAN

4 \* \* \*

5 (d) A school district that has received or is eligible to receive tax incentives  
6 under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or  
7 2015 Acts and Resolves No. 46, and that, at the request of the State Board,  
8 agrees by vote of its electorate to merge with another school district, shall  
9 receive a supplemental Transitional Facilitation Grant of \$10,000.00 to defray  
10 the costs of integration. Notwithstanding any provision to the contrary in  
11 16 V.S.A. § 4025, the Secretary of Education shall pay the board of the school  
12 district the supplemental Transition Facilitation Grant from the Education  
13 Fund.

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

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

16 § 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY

17 UNIONS

18 (a) The State Board shall review on its own initiative or when requested as  
19 per subsection (b) of this section and may regroup the supervisory unions of  
20 the State or create new supervisory unions in such manner as to afford  
21 increased efficiency or greater convenience and economy and to facilitate

1 prekindergarten through grade 12 curriculum planning and coordination as  
2 changed conditions may seem to require.

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

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

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

18 \* \* \*



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.



1 with a demonstrated commitment to ensuring quality education for Vermont  
2 students. To the extent possible, the members shall represent geographically  
3 diverse areas of the State. The Secretary shall serve on the State Board as a  
4 nonvoting member.

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

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

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

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

1 the first year and shall be a full and voting member during the second year of  
2 his or her term.

3 Sec. 19. TRANSITION; STATE BOARD MEMBERSHIP

4 The Governor shall appoint a representative of an independent school as a  
5 member of the State Board of Education under Sec. 18 of this act upon the next  
6 expiration of the term of a member of the Board previously appointed,  
7 excluding the student members, following the effective date of this section. A  
8 member who has served a full six-year term shall not be eligible for  
9 reappointment for another successive term.

10 Sec. 20. 16 V.S.A. § 164 is amended to read:

11 § 164. STATE BOARD; GENERAL POWERS AND DUTIES

12 The State Board shall evaluate education policy proposals, including timely  
13 evaluation of policies presented by the Governor and Secretary; engage local  
14 school board members and the broader education community; and establish  
15 and advance education policy for the State of Vermont. In addition to other  
16 specified duties, the Board shall:

17 \* \* \*

18 (14) Adopt rules for approval of independent schools that acknowledge  
19 and are consistent with legislative intent, as expressed through legislation  
20 passed by the General Assembly that recognizes differences between public  
21 and approved independent schools, including in their governance and

1 organizational structures, missions, scope of responsibilities, educator  
2 licensure and evaluation requirements, programmatic requirements, and  
3 reporting requirements.

4 \* \* \*

5 (22) At the request of the Governor, propose candidates for appointment  
6 to the position of Secretary of Education, and review and advise the Governor  
7 on the qualifications of any candidate for this position being considered by the  
8 Governor.

9 Sec. 21. NULLIFICATION OF 2200 SERIES OF THE RULES AND

10 PRACTICES

11 The proposed amendments to the 2200 Series of the Rules and Practices of  
12 the State Board of Education initiated by the State Board on November 13,  
13 2015 shall be null, void, and of no effect. The State Board may initiate new  
14 amendments to the 2200 Series of its Rules and Practices after the date the  
15 report required under Sec. 20 of this act is delivered to the House and Senate  
16 Committees on Education.

17 Sec. 22. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

18 (a) Creation. There is created an Approved Independent Schools Study  
19 Committee to consider and make recommendations on the criteria to be used  
20 by the State Board of Education for designation as an “approved” independent  
21 school.

1        (b) Membership. The Committee shall be composed of the following **ten**  
2        members:

3            (1) one current member of the House of Representatives who shall be  
4        appointed by the Speaker of the House;

5            (2) one current member of the Senate who shall be appointed by the  
6        Committee on Committees;

7            (3) the Chair of the State Board of Education or designee;

8            (4) the Secretary of Education or designee;

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

11           (6) the Executive Director of the Vermont School Boards Association or  
12       designee;

13           (7) the Executive Director of the Vermont Independent Schools  
14       Association or designee;

15           (8) two representatives of approved independent schools, who shall be  
16       chosen by the Executive Director of the Vermont Independent Schools  
17       Association; and

18           **(9) the Executive Director of the Vermont Council of Special Education**  
19       **Administrators or designee.**

20           (c) Powers and duties. The Committee shall consider and make  
21       recommendations on the criteria to be used by the State Board of Education for

1 designation as an “approved” independent school, including the following  
2 criteria:

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

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

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

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

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

14 (f) Meetings.

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

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

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

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

21 (g) Reimbursement.

