

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; increased flexibility for school district mergers

4 Statement of purpose of bill as introduced: This bill proposes to: (1) provide

5 greater flexibility for school district consolidation by providing tax incentives

6 for a side-by-side regional educational district structure where one side does

7 not operate all elementary and secondary grades; (2) provide greater flexibility

8 for school district consolidation by providing tax incentives for a side-by-side

9 regional educational district structure where three or more school districts

10 merge and the newly merged district, together with a preexisting district, are

11 members of the same supervisory union at the completion of the process;

12 (3) provide greater flexibility for school district consolidation by providing tax

13 incentives for a side-by-side regional educational district structure where four

14 or more school districts merge into two new districts and the newly merged

15 districts, together with a preexisting district, are members of the same

16 supervisory union at the completion of the process; (4) provide greater

17 flexibility for a school district that meets certain conditions to withdraw from a

18 union school district without approval by the remaining members of the union

19 school district; (5) extend the final date for voter approval of a merger and the

20 date by which a school district is required to make a governance proposal to

21 the Secretary of Education for a school district that has previously had a

1 merger proposal rejected by voters or wishes to add a new school district as a  
2 member of its study committee; (6) provide transition facilitation grants to all  
3 school districts that consolidate into a preferred governance structure and to a  
4 district that has consolidated and, at the request of the State Board of  
5 Education, merges with another district; (7) allow fees for consulting services  
6 to be used by a study committee recommending consolidation for the cost of  
7 community outreach; (8) require the State Board of Education to act on  
8 applications for supervisory union adjustments within 75 days of receipt; and  
9 (9) make certain technical and clarifying changes.

10 An act relating to increased flexibility for school district mergers

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

12 \* \* \* Findings \* \* \*

13 Sec. 1. FINDINGS

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

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

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

\* \* \* 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

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

3   \* \* \*

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

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

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

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

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

19           (A) geographically isolated, due to lengthy driving times or  
20 inhospitable travel routes between the Existing District’s school or schools and

1 the nearest school in which there is excess capacity as determined by the State  
2 Board of Education;

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

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

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

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

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

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

19 (4) The Three-by-One Side-by-Side Structure meets all criteria for RED  
20 formation other than the size criterion of 2010 Acts and Resolves No. 153,

1 Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as  
2 provided in this section.

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

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

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

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

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

20 REGIONAL EDUCATION DISTRICT INCENTIVES

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

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

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

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

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

19                        (C) unable to reach agreement to consolidate with one or more other  
20                        adjoining school districts because the school districts that adjoin the Existing  
21                        District have greatly differing levels of indebtedness per equalized pupil, as



1 defined in 16 V.S.A. § 4001(3), from that of the Existing District as  
2 determined by the State Board of Education.

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

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

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

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

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

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

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

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

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

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

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

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

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

19                           (1) The school district proposing to withdraw from the union school  
20           district operates a school or schools for all resident students in prekindergarten

1 through grade 6 and pays tuition for resident students in grade 7 through grade

2 12.

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

5 (3) A majority of the voters of the school district proposing to withdraw  
6 from the union school district present and voting at a school district meeting  
7 duly warned for that purpose votes to withdraw from the union school district.  
8 The clerk of the school district shall certify the vote to the Secretary of State,  
9 who shall record the certificate in his or her office and shall give notice of the  
10 vote to the Secretary of Education and to the other members of the union  
11 school district.

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

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

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

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

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

1        (c) The State Board shall:

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

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

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

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

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

18        Sec. 6. REPEAL

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

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

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

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

4               (a) ~~On~~ Subject to subsection (b) of this section, on or before November 30,  
5       2017, the board of each school district in the State that:

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

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

11   \* \* \*

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

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

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

1           Sec. 8. TIME EXTENSION FOR VOTE OF ELECTORATE

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

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

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

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

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

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

18   \* \* \*

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

21   \* \* \*

1           (3) Transition Facilitation Grant.

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

6                   (i) five percent of the base education amount established in  
7                   16 V.S.A. § 4001(13) multiplied by the greater of either the combined  
8                   enrollment or the average daily membership of the merging districts on  
9                   October 1 of the year in which the successful vote is taken; or

10                   (ii) \$150,000.00.

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

15   \* \* \*

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

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

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

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

12   \* \* \*

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

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

16   \* \* \*

17                   (d) A school district that has received or is eligible to receive tax incentives  
18 under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or  
19 2015 Acts and Resolves No. 46, and that, at the request of the State Board,  
20 agrees by vote of its electorate to merge with another school district, shall  
21 receive a supplemental Transitional Facilitation Grant of \$10,000.00 to defray



1 the costs of integration. Notwithstanding any provision to the contrary in  
2 16 V.S.A. § 4025, the Secretary of Education shall pay the board of the school  
3 district the supplemental Transition Facilitation Grant from the Education  
4 Fund.

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

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

7 § 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY

8 UNIONS

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

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

19 (2) Any group of school districts that have so voted at their respective  
20 annual school district meeting, regardless of whether the districts are members  
21 of the same supervisory union, may request that the State Board adjust existing

1 supervisory union boundaries and move one or more nonrequesting districts to  
2 a different supervisory union if such adjustment would assist the requesting  
3 districts to realign their governance structures into a unified union school  
4 district pursuant to chapter 11 of this title.

5 (3) The State Board shall ~~give timely consideration to requests~~ act on a  
6 request made pursuant to this subsection within 75 days of receipt of the  
7 request and may regroup the school districts of the area so as to ensure  
8 reasonable supervision of all public schools therein.

9 \* \* \*

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

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

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

14 \* \* \*

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

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

17 Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

18 \* \* \*

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

20 Sec. 15. AVAILABILITY OF TAX AND OTHER INCENTIVES

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

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

6        Sec. 23. DECLINING ENROLLMENT; TRANSITION

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

10       (b) If a district's equalized pupils in fiscal year 2016 reflect adjustment  
11       pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of  
12       § 4010(f) as amended by this act:

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

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

17       (c) Notwithstanding the provisions of subsections (a) and (b) of this  
18       section, if a district is actively engaged in merger discussions with one or more  
19       other districts regarding the formation of a regional education district (RED) or  
20       other form of unified union school district pursuant to 16 V.S.A. chapter 11,  
21       then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after,

1 and each of the dates in subsection (b) of this section shall be adjusted  
2 accordingly. A district shall be “actively engaged in merger discussions”  
3 pursuant to this subsection (c) if on or before July 1, 2016, it has formed a  
4 study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22  
5 of this act shall apply to the district, the district’s equalized pupil count shall be  
6 calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

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

8 Sec. 17. EFFECTIVE DATE

9 This act shall take effect on passage.