

# Act 46 of 2015 (H.361)

An act relating to making amendments to education funding, education spending, and education governance

# GOALS

Act 46 (Sec. 2) states that:

- its intent is to move the State toward sustainable models of education governance
- it is designed to encourage and support local decisions and actions that:
  - provide substantial equity in the quality and variety of educational opportunities
  - lead students to meet or exceed the State's Education Quality Standards
  - maximize operational efficiencies through greater flexibility to manage, share, and transfer resources, with a goal of increasing district-level student-to-staff ratios
  - promote transparency and accountability
  - are delivered at a cost that parents, voters, and taxpayers value

# Identification of Preferred Education Governance Structure

Act 46 (Sec. 5(b)) declares that State goals are best served by a single district that:

- is responsible for the education of all resident PK–12 students
- is its own supervisory district
- has an average daily membership (ADM) of 900+ students
- assumes one of the four most common structures:
  - operates PK/K–12
  - operates PK/K–6; tuitions 7–12
  - operates PK/K–8; tuitions 9–12
  - tuitions PK/K–12

# Identification of Alternative Education Governance Structures

Act 46 (Sec. 5(c)) acknowledges that the preferred structure is not always possible or is not the best means to achieve the goals in all regions

Alternative education structures can also meet the goals – including a supervisory union with member districts, each with its own school board, particularly if:

- the member districts consider themselves collectively responsible for the education of all resident PK–12 students in the SU
- the SU maximizes efficiencies, economies of scale, flexibility, etc.
- the SU has the smallest number of member school districts practicable
- the combined ADM of all member districts is at least 1,100

# Small School Grants & Merger Support Grants

If a district merges into a preferred structure (slide 3) by 7/1/19 (including a RED), an existing Small School Grant becomes a Merger Support Grant that is paid annually *unless and until* the small school is closed

- if the school is closed due to consolidation into a new or renovated building, then the Merger Support Grant continues for the life of the bond
- (available to joint contract schools if contract is effective by 7/1/19)

Otherwise, beginning 7/1/19, Small School Grants are available to a school that has an average grade size of 20 or fewer students AND that the State Board determines to be eligible annually EITHER because:

- it is geographically isolated from a school with excess capacity OR
- it demonstrates academic excellence and operational efficiency

(Secs. 6(b)(2), 7(b)(2), 7(d), 15, and 20-21)

# Declining Enrollment (“Phantom Pupils”) *Current Law*

16 V.S.A. § 4010(f) – the 3.5 % hold-harmless provision – was enacted in 1999 to protect school districts, particularly small school districts, from large, sudden tax increases due to declining student populations

As currently written, the 3.5 % hold-harmless provision is applied to a school district’s *inflated* equalized pupil count from the prior year

The compounding effect has inflated the equalized pupil count by as much as 77% in some districts, resulting in artificially low tax rates in those communities

# Declining Enrollment (“Phantom Pupils”) *Act 46*

**FY2017** – Act 46 removes the “tail” by applying the 3.5% to the district’s *actual* equalized pupils in the prior year, so a district’s percentage of “phantom pupils” is never more than 3.5%

**FY2017-FY2019** – Act 46 transitions districts with inflated counts over a three year period

**FY2021** – Act 46 repeals the 3.5% hold-harmless provision

EXCEPT:

- districts that voluntarily merge into the preferred governance structure (or into a RED) by July 1, 2019 are grandfathered from the repeal

(Secs. 22-25)

# Incentives to Move Voluntarily into Preferred Education Governance Structure

## **Phase 1: Enhanced Incentives for Accelerated Activity**

If operational by 7/1/17, an SU merging into an SD per the preferred structure (slide 3):

- Tax Rate Reduction (10-8-6-4-2 cents) during the first 5 years of operation
- Small Schools Grant becomes annual Merger Support Grant (slide 5)
- Transition Facilitation Grant (same as currently available for a RED)

(Sec. 6 and Secs. 8, 11, and 12)

# Incentives (continued...)

## **Phase 2: Extended Eligibility for RED Incentives**

If the electorate votes by 7/1/17 (replaces “if operational” by that date), the new district receives the incentives that are currently available, including:

- Tax Rate Reduction (8-6-4-2 cents) during the first 4 years of operation
- Small Schools Grant becomes Merger Support Grant (amended from 5 years per slide 5)
- Transition Facilitation Grant (\$150,000 or 5% of base education amount multiplied by ADM)

(Secs 15,16, and 19 and Secs. 8, 11, and 12)

# Incentives (continued...)

## **Phase 3: Incentives for Later Mergers**

If a group of districts merges into one of four most common structures (slide 3) and the new district is operational by 7/1/19:

- Tax Rate Reduction (8-6-4-2 cents) during the first 4 years of operation
- Small Schools Grant becomes annual Merger Support Grant (slide 5)

(Sec. 7 and Secs. 8, 11, and 12)

# Transition to Sustainable Governance Models by FY2020

**District Proposals by 11/30/17** – A district that will not be in a preferred structure by 7/1/19 must self-evaluate, meet with other districts, and present to the Secretary & State Board of Education a proposal to:

- keep its current governance structure OR
- change its current governance structure OR
- change its manner of operation in some other way (*e.g.*, contractually)

(Secs. 9 and 11-12)

## Transition (continued ...)

**Secretary's Proposal by 6/1/18** – the Secretary of Education will publish a proposed plan to merge districts or change SU boundaries *to the extent necessary* to meet State goals (slide 2)

(Secs. 10(a), 11, and 12)

# Transition (continued ...)

**State Board's Plan by 11/30/18** – The State Board will take testimony, evaluate the proposals, & issue a plan to merge districts or to change SU boundaries *to the extent necessary* to meet State goals (slide 2)

The plan makes changes to the extent practicable, given the realities of geography and population, and preserves each current district's existing decision to pay tuition or operate schools

Interstate school districts, CTE districts, and recently merged districts are grandfathered

(Secs. 10(b), 10(c), 11, and 12)

# Tax Rates and Yield Model

## **Fiscal Year 2016 Tax Rates (Secs. 35-36)**

- nonresidential rate – \$1.535
- homestead rate – \$0.99
- applicable percentage for those paying based on income– 1.80 percent

## **Dollar Equivalent System for Fiscal Year 2017 and After (Secs. 26-32)**

- Act 46 replaces the “base education amount” currently used to calculate base tax rates each year with a “dollar equivalent yield” for taxpayers who pay on the value of their homestead property and for taxpayers who receive an income sensitivity adjustment
- The “dollar equivalent yield” is the amount of per pupil spending that could be supported each year by a fixed homestead base tax of \$1.00 for property payers, and by a fixed applicable income percentage of 2.0% for income payers

# Allowable Growth in Education Spending

- the excess spending penalty is triggered if a district exceeds its own “allowable growth”
- allowable growth is determined on a sliding scale, from 0% to 5.5%, depending on how much the district spent in the prior year – the more the district spent in the prior year, the lower its allowable growth
- does not apply to districts that are transitioning from a high percentage of phantom pupils (slide 7)

**FY2017 and FY2018 ONLY**

(Secs. 37-38)

[table of variable education spending growth](#)

# Failure to Comply: *SU Duties*

## **Failure to Comply with Current Statutory Duties**

(*e.g.*, SU shall provide special education services for member districts)

- after notice, a hearing, and the opportunity to remediate, imposes a 5% tax penalty on districts that violate current laws regarding SU duties
- the penalty can be imposed FY2018 and after

(Sec. 39)

# Failure to Comply: *Meeting EQS*

## **Failure to Move Toward Meeting State Education Quality Standards (16 V.S.A. §165)**

- clarifies the State Board's *current* authority to:
  - continue technical assistance
  - redraw SU boundaries
  - assume administrative control
  - close school
- *adds* authority to merge districts
- effective FY2020

(Sec. 40)

# Adequacy-Based Funding Model

- JFO will issue an RFP for a consultant to analyze how to move to an adequacy-based education funding model without violating the constitutional requirement for an equity-based model
- authorizes transfer of up to \$300,000 of FY2015 Education Fund appropriations, before reversion in January 2016

(Sec. 50)

# Other Miscellaneous Provisions

- **Secs. 13-14:** exempt newly formed union school districts and joint contract schools from the statutory requirement that school districts repay a portion of State construction aid upon sale of a school building; the exemption is repealed on July 1, 2017
- **Sec. 18:** moves the eligibility deadline for the \$150,000 grants to assist with transition costs (Act 156 of 2012) from July 1, 2017 to December 31, 2015
- **Sec. 33:** requires the warning for a school district's proposed budget to state:
  - the total budget in terms of per equalized pupil spending
  - the percentage increase or decrease of per equalized pupil spending in relation to the previous year
- **Sec. 42:** makes SUs the Local Education Agency for federal accountability (AYP) determinations (effective July 1, 2016)
- **Sec. 43:** codifies as a new subchapter in Title 16 several new statutory sections relating to the orderly transition of employees to a newly created district or to the supervisory union level
- **Sec. 44:** the current definition of a unified union school district requires that a district operates a school or schools for kindergarten through grade 12; amends the definition to include districts that pay tuition payment for some or all grades
- **Sec. 45:** currently, districts that don't operate high schools may designate one public or approved independent school to be the high school for students residing in the district; authorizes a nonoperating district to designate up to three schools

# New Reports

**Special Ed Funding:** requires the Secretary of Education to develop a proposal for an alternative method of funding special education services, which might be based in part on payments per average daily membership  
*Due: January 15, 2016*

**Principals and Superintendents:** requires the Secretary of Education, in consultation with other entities, to develop a proposal to clarify the roles and responsibilities of superintendents and principals  
*Due: January 15, 2016*

**Property Tax Adjustment; Lag:** requires the Commissioner of Taxes to report on the steps that would be required to transition to calculation of the property tax adjustments under 32 V.S.A. chapter 154 on a current year basis  
*Due: January 15, 2016*

**AHS / AOE Coordination:** requires the Agencies of Education and of Human Services to develop a plan to maximize the collaboration and coordination of social services delivery to Vermont public school students and their families  
*Due: January 15, 2016*

**Health Care Costs:** requires the Director of Health Care Reform to consider alternatives available to school districts, supervisory unions, and their employees to address the high cost of health care, including the possibility of transitioning to plans offered through Vermont Health Connect, the Vermont Education Health Initiative, and other mechanisms  
*Due: November 1, 2015*

**Repayment of State School Construction Aid upon Sale of Building:** requires review by Secretary of Education  
*Due: December 1, 2015*

# Act 46 Does NOT ...

- Require that all school districts merge into larger governance units
- Establish a required minimum average daily membership (ADM) for school districts
- Require that all SUs merge into fewer, larger SUs
- Establish a required minimum ADM for SUs
- Encourage or require closure of schools – including small schools
- Restrict or repeal (or allow restriction or repeal of) the current authority of school districts to continue to pay tuition, to operate a school, or to do both
- Change the amount or manner in which a district pays tuition
- Limit the categories of schools that may receive publicly funded tuition dollars

(See, *e.g.*, Secs 3 and 4)

# Act 46 Links

[As Passed House and Senate](#)

[Findings \(as a bulleted list of data\)](#)

[Section by Section Summary](#)

[Timeline of Governance and Funding Sections](#)

# Other 2015 Education Acts

- [Act 19 \(S.71\) - Governance of the Vermont State Colleges](#)
- [Act 45 \(S.44\) - Early College Enrollment Numbers; Universal Higher Education Savings Account Program](#)
- [Act \(H.480\) - Technical and Miscellaneous Other Amendments to Education Laws](#)
- [Act \(H.490\) - Appropriations Bill \(sections in the E.500 and E.600 series relate to education\)](#)

# CURRENT EDUCATION GOVERNANCE: AN OVERVIEW

# Supervisory Unions

## **SUPERVISORY UNION (SU)**

### **Definition / Function**

- An “administrative, planning, and educational service unit” consisting of two or more school districts (16 V.S.A. § 11(23)) (*But see “NOTE”* under Supervisory District below)
- The State Board of Education has the authority to adjust the boundaries of an SU on its own initiative or at the request of a school district (16 V.S.A. § 261)
- An SU may hire a superintendent, but it is not required to do so (16 V.S.A. § 241)
- An SU does not operate schools, but as of July 1, 2014 it is required to provide special education services on behalf of member districts (16 V.S.A. § 261a)

### **Governing Board** (16 V.S.A. § 266)

- An SU board consists of representatives appointed from each member school district’s board
- The proportional representation requirements of the Equal Protection Clause do not apply

### **Budget** (16 V.S.A. §§ 261a and 301)

- The SU board adopts a budget and allocates it among the member districts
- The electorate does not vote directly on the SU budget; it is included in each district’s budget

## **SUPERVISORY DISTRICT (SD)** (16 V.S.A. § 11(24))

- An SU that has only one district (*e.g.*, Burlington; Montpelier)
- Can include multiple towns (*e.g.*, Blue Mountain SD)
- The footprints of the SD and the school district are identical
- One board governs all schools in an SD and serves as the board of both the SD and the school district
- Budgets are developed and adopted as in any school district
- *NOTE:* The definition of “supervisory union” includes a supervisory district “if the context clearly allows”

# School Districts

## SCHOOL DISTRICTS – GENERALLY

### **Definition / Function**

- A district can be organized to provide for the education of resident students in:
  - all grades or
  - in some subset of grades
- A school district is responsible for providing for the education of its resident students, either:
  - by operating a school or schools
  - by paying tuition on behalf of its resident students, or
  - by both (16 V.S.A. §§ 821–822)
- The boundaries of a district can encompass one or more towns or portions of a towns

### **Governing Board**

- There is one elected governing body (the school board) for the entire district, regardless of the number of towns or portions of towns included in the district
- The Equal Protection Clause of the U.S. Constitution requires proportional representation

### **Budget**

- The school board proposes a budget that is adopted by vote of the electorate
- When a district includes more than one town or parts of towns, the votes are commingled

# School Districts (*continued ...*)

## SCHOOL DISTRICTS – TYPES

**Town or City School Districts** – The boundaries of the town/city are the boundaries of the district – *e.g.*:

- Berlin School District (operates PK–6)
- St Johnsbury School District (operates PK–8; pays tuition for 9–12)
- Colchester School District (operates K–12)

**Incorporated Districts** – These districts operate under a charter granted by the General Assembly – *e.g.*:

- Barton ID (operates K–8)
- North Bennington ID (pays tuition for PK–6)

### **Union School Districts (16 V.S.A. chapter 11)**

- Two or more school districts merge into one district, a union school district, for the purpose of owning, constructing, maintaining, and operating schools – *e.g.*:
  - Leland & Grey Union School District (Brookline, Jamaica, Newfane, Townsend, & Windham; the district operates 7–12)
- These districts have all the same rights and responsibilities as any school district – *e.g.*, representation on the school board is proportional; there is one tax rate for all member towns; votes of the electorate are commingled
- **A Unified Union School District** operates a school offering PK/K–12 – *e.g.*:
  - Twinfield Union School District (Marshfield and Plainfield) (*this act expands the definition to include tuitioning*)

### **Interstate School Districts**

- There are two districts that provide education to a combination of New Hampshire and Vermont students. They were created by acts of the two state legislatures and of Congress. They are Vermont schools for purposes of financing only. Vermont governance decisions do not affect them.

# SUPERVISORY DISTRICTS:

## *Examples of Variations*

\* an SU composed of one school district \*

\* responsible for PK-12 (*but see Essex Town SD below*) \*

### **BLUE MOUNTAIN SUPERVISORY DISTRICT (#57)**

**Geography:** Groton, Ryegate, & Wells River

**Grades Operated:**

- operates 1 school offering PK–12

### **ST JOHNSBURY SUPERVISORY DISTRICT (#11)**

**Grades Operated / Tuitioned:**

- operates 1 school offering grades PK–8
- pays tuition for grades 9–12

### **RUTLAND CITY SUPERVISORY DISTRICT (#40)**

**Grades Operated:**

- operates 2 schools offering grades K–2
- operates 1 school offering grades 3–6
- operates 1 school offering grades 7–8
- operates 1 school offering grades 9–12
- (plus the Allen Street Campus – grades K–12)

### **ESSEX TOWN SUPERVISORY DISTRICT (#59)**

**Grades Operated:**

*NOTE:* organized & responsible solely for PK–8 per 2006 Acts and Resolves No. 115

- operates 1 school offering grades PK–2
- operates 1 school offering grades 3–5
- operates 1 school offering grades 6–8

# SUPERVISORY UNIONS:

## *Examples of Variations*

### **ADDISON NORTHEAST SUPERVISORY UNION (#1)**

**Geography:** Bristol, Lincoln, Monkton, New Haven, and Starksboro (5)

**Number of School Districts:** six

**Grades Operated / Tuitioned by Each District:**

- Bristol School District – operates K–6
- Lincoln School District – operates K–6
- Monkton School District – operates K–6
- New Haven School District – operates K–6
- Starksboro School District – operates K–6
- Mt Abraham Union High School District (towns/villages of Bristol, Lincoln, Monkton, New Haven, and Starksboro are the members) – operates 7–12

### **WINDHAM CENTRAL SUPERVISORY UNION (#46)**

**Geography:** Brookline, Dover, Jamaica, Marlboro, Newfane, Stratton, Townshend, Wardsboro, Windham (9)

**Number of School Districts:** ten (plus separate school board for the joint contract school)

**Grades Operated / Tuitioned by Each District:**

- Dover School District – operates PK–6; pays tuition for 7–12
- Wardsboro School District – operates PK–6; pays tuition for 7–12
- Marlboro School District – operates PK–8; pays tuition for 9–12
- Stratton School District – pays tuition for K–12
- Jamaica School District – operates K–6
- Townshend School District – operates K–6
- Windham School District – operates PK–6
- Brookline School District – together with Newfane jointly operates K–6
- Newfane School District – together with Brookline jointly operates K–6
- Leland and Gray Union School District (the towns/villages of Brookline, Jamaica, Newfane, Townshend, and Windham are the members) – operates 7–12

# Variations in Governance Structures and in Operating / Tuitioning Patterns

[Map](#)

# Some Numbers

## **Governance Units:**

- 59 Supervisory Unions
  - 12 of the 59 are Supervisory Districts
  - 2 of the 59 are Interstate Districts
  - in addition, there are 3 independent Career Technical Center School Districts, each of which is its own SD
- 270 school districts
  - organized into 13 different types of school district governance structures

## **Student Population:**

- K – 12 population: ~103,000 in FY97; ~78,300 in FY15
- 6 – 17 year old children living in families receiving nutrition benefits: ~13,000 in FY97; ~19,200 in FY14

## **School Size:**

- the smallest elementary school (K-6) has 15 students
- the smallest high school (9-12) has 55 students
- of the ~300 public schools in Vermont:
  - 205 have 300 or fewer students
  - 64 have 100 or fewer students
  - 16 have 50 or fewer students

## **School District Size:**

- the smallest school district has 6 students
- 79 school districts have 100 or fewer students
- 4 school districts have more than 2,000 students

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