

**Proposed Statewide Plan for School District Governance  
2015 Acts and Resolves No. 46, Sec. 10(a)**

**June 1, 2018**

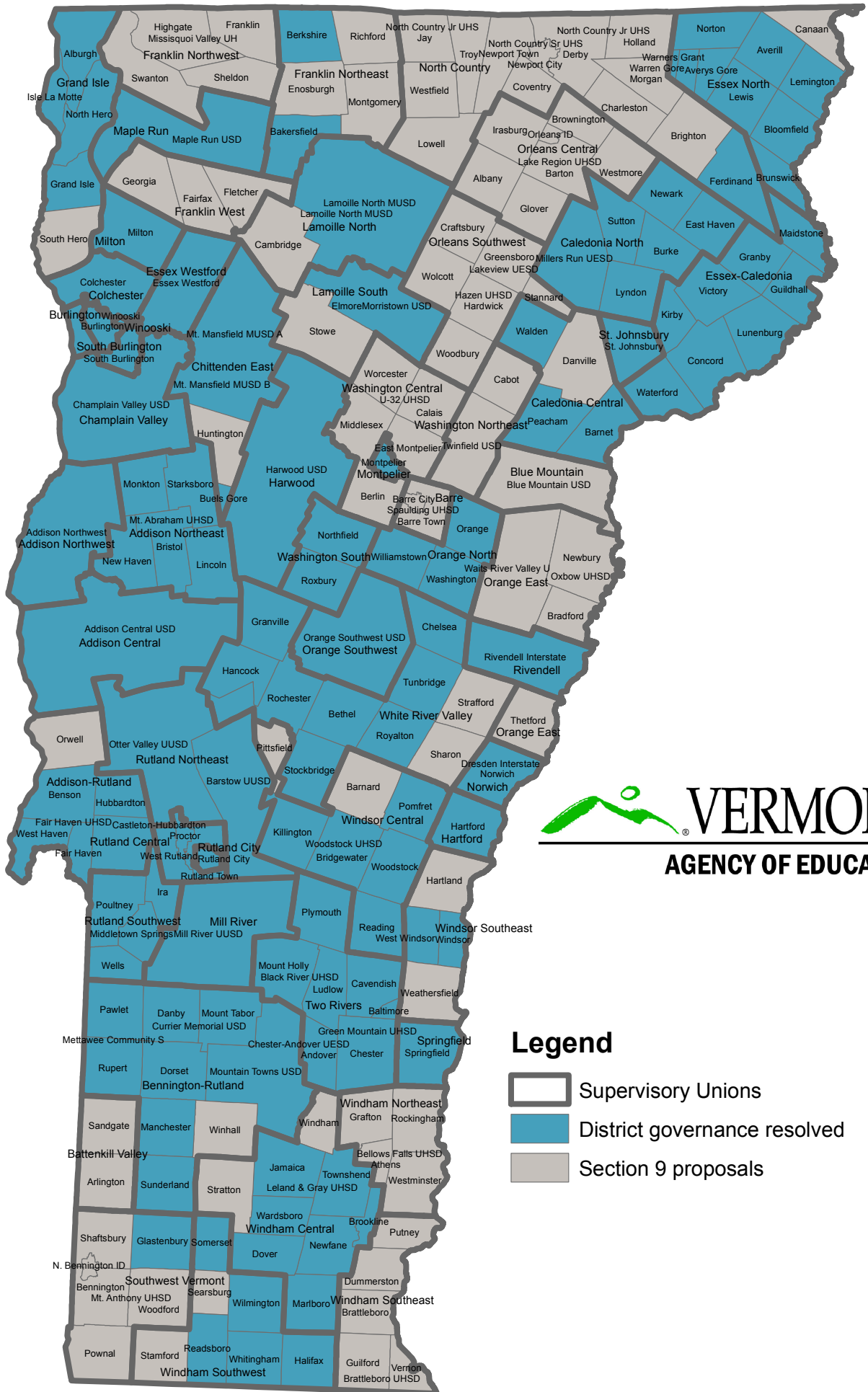
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# Table of Contents

Executive Summary .....	6
I. Background.....	8
II. Overview of Process.....	11
III. Section 9 Proposals .....	13
IV. The Law’s Goals and Mandates.....	15
V. Thematic Observations.....	17
VI. District Mergers –Proposals and Analysis .....	22
A. Existing Union High School Districts and Their Member Elementary Districts .....	25
a. Traditional UHSDs .....	26
1. The Brattleboro Union High School District and its Four Member Elementary Districts (Brattleboro; Dummerston; Guilford; Putney).....	26
The Brattleboro Elementary School District.....	27
The Dummerston Elementary School District .....	28
The Guildford Elementary School District.....	30
The Putney Elementary School District .....	31
2. The Missisquoi Valley Union High School District and its Three Member Elementary Districts (Franklin; Highgate; Swanton).....	37
3. The Oxbow Union High School District and its Two Member Elementary Districts (Bradford; Newbury) .....	43
The Newbury School District .....	44
The Bradford Incorporated District and the Oxbow Union High School Districts .....	45
4. The Spaulding Union High School District and its Two Member Elementary Districts (Barre City; Barre Town) .....	49
5. The Union 32 High School District and its Five Member Elementary Districts (Berlin; Calais; East Montpelier; Middlesex; Worcester).....	51
b. MUUSDs and NMEDs .....	60
6. The Barnard Elementary School District (NMED) .....	63
7. The Cambridge Elementary School District (NMED).....	71
8. The Huntington Elementary School District (NMED).....	74
9. The Orwell Elementary School District (NMED) .....	79
10. The Windham Elementary School District (NMED).....	83
c. USDs with Un-Like Members.....	89
11. The Bellows Falls Union High School District and its Four Member Districts (Athens, Grafton, Rockingham, and Westminster).....	91

12. The Hazen Union High School District AND the Lakeview Union Elementary School District and All Member Districts (Greensboro; Hardwick; Stannard; Woodbury).....	97
13. The Lake Region Union High School District and its Seven Member Districts (Albany; Barton; Brownington; Glover; Irasburg; Orleans; Westmore).....	100
14. The Mount Anthony Union High School District and its Five Member Districts (Bennington; North Bennington; Pownal, Shaftsbury; Woodford).....	102
Bennington, Shaftsbury, and Woodford School Districts .....	103
North Bennington Incorporated District .....	104
Pownal School District .....	104
15. North Country Union High School District and its Member Districts (Brighton; Charleston; Derby; Holland; Jay; Lowell; Morgan; Newport City; Newport Town; Troy; Westfield) and the Coventry School District.....	109
<b>B. Single-Town Districts that Pay Tuition for All Resident Students, PreK-12 (“Nonoperating Districts”)</b> .....	<b>113</b>
16. The Pittsfield School District .....	115
17. The Sandgate School District.....	117
18. The Searsburg School District .....	119
19. The Stratton School District.....	121
20. The Winhall School District.....	123
<b>C. Town Districts Responsible for PreK-12 and Union Districts Not Exempt from Merger</b> 125	
a. Districts for Which Merger is “Possible” ... BUT is Merger Also “Practicable”? And/or is Retaining the Same Structure “Best”? .....	126
21. The Blue Mountain Union School District (Towns of Groton, Ryegate, and Wells River).....	126
22. The Cabot School District .....	132
23. The Danville School District.....	132
24. The Twinfield Union School District (Towns of Marshfield and Plainfield)132	
The Cabot School District .....	133
The Danville School District.....	135
The Twinfield Union School District.....	136
25. The Craftsbury School District.....	143
26. The Elmore-Morristown UUSD and the Stowe School District .....	146
27. The Enosburgh School District and the Richford School District .....	150
28. The Fairfax School District, the Fletcher School District, and the Georgia School District.....	157
29. The Hartland School District and the Weathersfield School Districts.....	161
30. The Montgomery School District.....	166

31. The Sheldon School District.....	174
32. The Stamford School District.....	180
33. The Waits River Valley Union School District (Towns of Corinth and Topsham) .....	182
b. Districts for Which Merger is Either NOT “Possible” or NOT “Practicable” or Both	185
34. The Arlington School District.....	185
35. The Canaan School District.....	185
36. The Coventry School District .....	185
37. The Sharon School District.....	185
38. The South Hero School District.....	185
39. The Strafford School District .....	185
40. The Thetford School District .....	185
41. The Vernon School District.....	185
42. The Windsor / West Windsor UUSD.....	185
43. The Wolcott School District .....	185
VII. Adjustment of SU Boundaries .....	187
APPENDICES.....	189



**Legend**

- Supervisory Unions
- District governance resolved
- Section 9 proposals

# Secretary's Proposed Plan Pursuant to Act 46, Sec. 10

## Executive Summary

### Legislative Mandate

- [Act 46](#) was enacted in July of 2015. It created three phases of voluntary school district merger and one non-voluntary phase to be mandated by the State Board of Education and implemented on July 1, 2019.
- This proposed plan is required by Act 46, Section 10 and is submitted to the State Board for its consideration as it begins to write the final statewide plan, to be issued on or before November 30, 2018.
- This proposed plan was written after consideration of unmerged districts' [proposals](#) under Act 46, Section 9, and formal conversations with those districts' representatives as required by Act 46, Sec. 10.

### Statewide Governance Context

Vermont's General Assembly passed Act 46 in response to, among other factors, a substantial change in the state's demographics. Over the past twenty years, consistent with trends across the northeast and rural states generally, Vermont's student population has shrunk by more than 24 percent. Some school districts now educate fewer than half the students they had 20 years ago. Act 46 offered districts a package of phased tax reductions and other transitional assistance in exchange for merging small, usually single-school, single-town school districts, into larger more sustainable governance units.

Many districts chose to take advantage of the voluntary merger phases. Taking into account earlier legislative programs offering tax rate reductions and transitional assistance for school district mergers, a total of **157** districts came together to create **39** new unified districts – a net reduction of **118** districts. Taken as a whole, this statewide shift in governance was a monumental effort undertaken through processes that included study committees, community outreach, local elections, and legislative feedback. As of June 1, 2018, nearly **68%** of all students are in merged districts or in districts the Legislature has deemed to be at a sustainable scale. In total:

- Voters in **146** towns
- Voted to merge **157** former districts
- Into **39** new unified districts
- In **33** former Supervisory Unions
- For a net reduction of **118** districts and **4** fewer supervisory unions

At the end of 2017, districts that had not merged under one of the voluntary merger programs and were not otherwise exempt under Act 46<sup>1</sup> were required to engage in a process of self-reflection and to submit a proposal for their own governance, either individually or in concert with neighboring districts. A total of **44** individual school districts *or* groups of school districts submitted written or verbal proposals to the State Board and Agency under Act 46, Sec. 9. The proposals represented the thinking of **95** school districts in **90** towns. The proposals ranged

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<sup>1</sup> Nine supervisory districts (single-district supervisory unions) with an average daily membership greater than 900; two federally-sanctioned interstate school districts; and five single-town districts that received early State Board approval not to merge under either the 3-by-1 or 2-by-2-by-1 Program.

across a spectrum of options including proposing to maintain the current governance structure, recommending merger with a neighboring district or group of districts, or making no recommendation at all.

The Secretary, along with Agency of Education staff, held **42** formal conversations with school board representatives pursuant to Act 46, Sec. 10 regarding the **44** written or verbal Section 9 submissions. This proposed plan was written after participating in those conversations and analyzing each individual Section 9 Proposal.

### **Proposed Plan Highlights**

This proposed plan addresses all **44** written and verbal proposals received, but the following proposed plan regroups them as a discussion of **43** individual districts or groups of districts. For example, the members of a union high school district might have submitted four separate proposals, but they are grouped below into one discussion. Conversely, a group of districts that submitted a single proposal might be discussed separately – for example, one discussion regarding a union high school district and all of its member districts and a separate discussion of a district that is not a member of the union district.

#### **Regarding the 43 districts or groups of districts discussed below:**

- The Secretary recommends merger with respect to **18**
- The Secretary proposes no action with respect to **3**, so that each community's ongoing voluntary merger process can proceed
- The Secretary does not recommend merger with respect to **12**, because merger is not practicable at this time and it would not advance the goals of Act 46
- The Secretary does not recommend merger with respect to **10**, because it is not legally possible due to differing operating/tuitioning structures within the region

# Proposed Statewide Plan for School District Governance

## 2015 Acts and Resolves No. 46, Sec. 10(a)

### I. Background

#### A. Statistical Realities

Vermont has great schools, progressive education policy, and high levels of public commitment to our children. Every school board and every town is passionate about educating its children well. Nevertheless, persistent declines in enrollment, pressures of affordability, complex structures, and increasing poverty threaten the State's ability to support high quality education into the future. From Fiscal Year ("FY") 1997 to FY 2018, Vermont's kindergarten to grade 12 average daily membership experienced a 24% decline. Some districts now educate fewer than half the students they had some 20 years ago.

During the same years, the proportion of Vermont students with severe emotional needs increased from 1.5% of the population in FY 1997 to 2.3% in FY 2015, the year the Legislature enacted Act 46.<sup>2</sup> From July 1997 through July 2014, the number of Vermont children ages 6 through 17 residing with families receiving nutrition benefits increased by nearly 48%, from 13,000 to 19,200. In addition, the proportion of students from families in crisis due to loss of employment, opiate addiction, and other factors also increased during this time period, requiring the State's public schools to fulfill an array of human services functions. While our student numbers have decreased over time, our schools have grappled with an increase in external factors that impede student learning. These factors tend to hit small, rural districts harder than those with greater scale and available resources.

Act 46's findings stated, "[w]ith 13 different types of school district governance structures, Vermont's elementary and secondary education lacks cohesive governance and delivery systems. As a result, many school districts: (1) are not well-suited to achieve economies of scale; and (2) lack the flexibility to manage, share, and transfer resources, including personnel, with other school districts and to provide students with a variety of high-quality educational opportunities."

In addition, the ability to compare data across districts to gauge the success of schools has become increasingly challenging as school districts have become smaller. In very small districts, student data may not be legally reportable under federal privacy protections. In addition, the diversity of district structures (*e.g.*, PreK-4; PreK-6; PreK-8; 7-12; 9-12) and operating/tuitioning patterns limits the ability to compare data between districts.

Since passage of Act 46, voters have engaged in hard conversations about how to best care for and educate their children, including those needing additional supports, in an equitable way in the face of the trends described above. Under Act 46 and incorporated earlier legislation that

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<sup>2</sup> 2015 Acts and Resolves No. 46. *Note* that, where applicable, any reference to any Act or section of an Act in this document refers to the Act or section *as amended* by any later Act.



also offered tax rate reductions and other transitional assistance for school district mergers, a total of **157** districts came together to create **39** new unified districts, for a net reduction of **118** districts.

## **B. Act 46 and Related Governance Laws**

The stated purpose of Act 46 is “to encourage and support local decisions and actions that:

- (1) provide substantial equity in the quality and variety of educational opportunities statewide;
- (2) lead students to achieve or exceed the State’s Education Quality Standards, adopted as rules by the State Board of Education at the direction of the General Assembly;
- (3) maximize operational efficiencies through increased flexibility to manage, share, and transfer resources, with a goal of increasing the district-level ratio of students to full-time equivalent staff;
- (4) promote transparency and accountability; and
- (5) are delivered at a cost that parents, voters, and taxpayers value.”<sup>3</sup>

Incorporating existing laws, Act 46 established a multi-year, phased process that provided multiple opportunities for school districts to unify existing disparate governance entities into “sustainable governance structures” that are designed to meet the identified educational and fiscal goals, while recognizing and reflecting local priorities.

In Act 46, the Legislature identified the preferred model of governance as a unified union school district<sup>4</sup> responsible for the PreK-12 education of its resident students (whether by operating all grades; by operating PreK-6 or PreK-8 and tuitioning the remaining grades; or by tuitioning all grades) that is large enough to function effectively<sup>5</sup> as a supervisory district (*i.e.*, a single-district supervisory union). The four identified operating/tuitioning structures represent the most common governance structures in the State.<sup>6</sup>

Act 46 acknowledges that the creation of a supervisory district is not always “possible” or “the best” means to accomplish the Act’s stated goals and that there will be supervisory unions with multiple merged and/or unmerged districts in some regions of the State (“Alternative Structures”).<sup>7</sup>

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<sup>3</sup> Act 46, Sec. 2.

<sup>4</sup> See Part VI for *Definitions of Essential Terms*.

<sup>5</sup> Existing statutes that have been in law for decades do not identify one size that is “large-enough” for a supervisory union or supervisory district, instead allowing the State Board to determine what is best for each region. The Legislature provided guidance, however, when in Act 46 it offered tax rate reductions and other transitional assistance for unified union districts that had an average daily membership of at least 900.

<sup>6</sup> Act 46, Sec. 5(b).

<sup>7</sup> Act 46, Sec. 4(c) – discussed in more detail below, including amendments by 2017 Acts and Resolves No. 49.

Act 46 created or incorporated three phases of voluntary merger<sup>8</sup>, each of which offered the potential for tax rate reductions and other transitional assistance and all of which relied upon a decades-old statutory process for the creation of union school districts.<sup>9</sup> Districts that did not pursue or did not expect to achieve a voluntary merger by July 1, 2019 were required to evaluate their ability to meet or exceed State goals, to talk with other districts, and to present proposals to the State Board of Education regarding the best way to meet or exceed the goals going forward.<sup>10</sup>

During 2018, Act 46 requires the Secretary of Education to develop a proposal and the State Board to issue a final statewide plan that redraws SU boundaries and realigns unmerged districts into sustainable models of governance that meet State goals - to the extent the changes are *necessary, possible, and practicable* for the region.<sup>11</sup>

The Act 46-required process set out in Section 9 of self-study, regional conversations, and recommendations is necessary both to support local continuous improvement and to inform State Board decision-making in connection with its final statewide plan.

### **C. Voluntary Phases**

As mentioned above, Act 46 created or incorporated three phases of voluntary merger into unified districts:

Phase 1 – The Accelerated Program (Act 46, Sec. 6);

Phase 2 – The Regional Education District (Act 153 of 2010), Side-by-Side District (Act 156 of 2012, Sec. 15), and Modified Unified Union School District (Act 156 of 2012, Sec. 17) Programs; and

Phase 3 – The “Conventional” Merger Program (Act 46, Sec. 7).

All three phases of voluntary merger programs rely upon the decades-old statutory process for creation of union school districts under which all current union high school districts, union elementary school districts, and unified union (PreK-12) districts were formed.<sup>12</sup>

See Appendix A for details about the new unified districts and the merging districts that formed them.

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<sup>8</sup> The earlier incorporated acts were: 2010 Acts and Resolves No. 153, which created the Regional Education District program. 2012 Acts and Resolves No. 156, Secs. 15-17, which created the “Side-by-Side” program, the Union Elementary District program, and the Modified Unified Union School District program.

<sup>9</sup> 16 V.S.A. ch. 11.

<sup>10</sup> Act 46, Sec. 9, as amended by Act 49, Sec. 10.

<sup>11</sup> Act 46, Secs. 8 and 10.

<sup>12</sup> 16 V.S.A. § 701, *et seq.*

## II. Overview of Process

### A. Duties of Unmerged Districts

Act 46 required the board of each school district in the State that will not be in a newly unified structure by July 1, 2019 to submit a “Section 9 Proposal” by December 26, 2017 in which the school board:

- analyzed the district’s current ability to meet the Act 46 Goals;
- recounted its conversations with other districts on ways to improve opportunity, equity, and efficiency regionally; and
- presented a proposal to improve by either:
  1. merging with other districts;
  2. working with other districts in some other way; or
  3. retaining the same governance structure.

Section 9 required the proposal submitted by each school board or group of school boards to:

- “demonstrate[], through reference to enrollment projections, student to staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the proposal ... supports the district’s or districts’ ability to meet or exceed each of the [Act 46 goals]; and
- ... identif[y] detailed actions it proposes to take to continue to improve its performance in connection with each of the goals ...”

The proposing district or districts may amend or supplement the proposal at any time before the State Board issues the final statewide plan, discussed in Subpart C below.<sup>13</sup>

### B. Secretary’s Review, Conversations, and Proposed Statewide Plan

Act 46 requires the Secretary of Education<sup>14</sup> to review “the governance structures of the school districts and supervisory unions of the State as they will exist, or are anticipated to exist, on July 1, 2019.” The Legislature requires the review to “include consideration” of Section 9 proposals and “conversations” with both the districts submitting the proposals “and other districts.”<sup>15</sup>

By June 1, 2018, the Secretary must develop and publish on the Agency’s website a proposed statewide plan that may incorporate a school board’s Section 9 Proposal in full, in part, or not at all.

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<sup>13</sup> Act 49, Sec. 8 (amending Act 46, Sec. 10)

<sup>14</sup> Laws frequently require the “Secretary” of an Agency to take an action. A Secretary could not individually perform all functions assigned to her/him. Instead, although a Secretary and the Governor are ultimately responsible for the work of the Agency, a Secretary necessarily delegates legislatively-required work to Agency staff. Accordingly, this proposal was developed with the assistance of many Agency employees. This delegation was intended by the Legislature. See the memorandum dated April 4, 2018 from legislative leaders as well as the State Board and the Governor attached as Appendix D.

<sup>15</sup> Act 46, Sec. 10(a).

### **C. Review, Public Testimony and Discussion, and Final Statewide Plan**

The State Board of Education must review the proposed statewide plan after it is made public on June 1 and may “take testimony or ask for additional information from districts or supervisory unions.”<sup>16</sup> Act 46 requires the State Board to issue a final statewide plan by November 30, 2018 that will merge districts and redraw SU boundaries to the extent necessary to achieve sustainable governance structures capable of meeting or exceeding the Act 46 Goals of equity, excellence, and efficiency. The State Board’s final statewide plan may incorporate the Secretary’s proposed plan in full, in part, or not at all. Similarly, the Board’s statewide plan may incorporate a school board’s Section 9 Proposal in full, in part, or not at all.

The State Board will issue default articles of agreement to be used temporarily by all unified districts created by the statewide plan.

Although the State Board’s final statewide plan is effective when issued, Act 46 does not require merged districts and reconfigured SUs to be fully operational until July 1, 2019.

The members of the State Board individually began to review Section 9 proposals in February, 2018. They intend to devote at least one public meeting in June to the Secretary’s proposed statewide plan. In July, August, and September, the Board plans to hold its regular monthly meeting in the north, central, and southern regions of the State, where the Board will discuss the region, including the pertinent Section 9 proposals, and take testimony from board members and other community members. The State Board is scheduling an additional public meeting in October to discuss and make final decisions regarding its final statewide plan, with the intention that it will issue the plan by the end of October – one month before the legislative deadline – to provide as much transition time as possible before the full-operation date of July 1, 2019.

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<sup>16</sup> Act 46, Sec. 10.

### **III. Section 9 Proposals**

#### **A. Proposals Received by the Agency**

School Boards submitted a total of 44 individual and joint proposals under Act 46, Sec. 9. These written and verbal proposals represent the thinking of 95 school districts (*e.g.*, PreK-12 town districts, union high school districts, town elementary districts that are members of a union high school district, etc.) serving 90 towns. Five of the 44 proposals were from “Non Member Elementary Districts” – the town elementary districts that are a high school member of a Modified Unified Union School District. Also included within the 44 proposals were submissions from school boards within two supervisory unions indicating that they had formed new study committees and were exploring merger pursuant to 16 V.S.A. § 706 and from a third district stating that it is exploring the creation of an interstate school district.

Written proposals ranged in size from a one-page letter to a written summary with four large binders of supporting documents. Some school boards presented verbal proposals.

The content of the proposals vary widely as well. For example, while some school boards propose retaining a supervisory union with multiple member school districts – even where those districts share the same operating/tuitioning structure or are members of the same union high school – other school boards believe that the best way forward is for the State Board to require the merger proposed by a local study committee but rejected by the voters of some or all “necessary” districts. In addition, elementary districts that are members of a union high school sometimes independently proposed plans that conflict with the plans from other member elementary districts, even though the State Board’s Plan will necessarily address the union school and all of its members in a consistent manner.

Links to the Section 9 Proposals can be found on the Agency’s website, at the [School Governance / Sec. 9 Proposals webpage](#).

#### **B. Conversations with School Board Representatives**

As required by Act 46, Sec. 10(a), Agency staff had a “conversation” with school board representatives of 42 of the 44 districts or groups of districts that submitted a written or verbal Section 9 Proposal.

In advance of each Conversation, the Agency provided the school boards with the same list of topics and other information drawn from the language of Act 46 itself to assist the boards in their preparation. This document is attached as Appendix E.

At least three individuals at the Agency read each proposal prior to meeting with representatives of the respective school board for the Conversation and read the proposal at least one more time prior to finalizing this report. Additional individuals also reviewed the proposals during the five months leading to the issuance of this proposal.

Each Conversation was an opportunity for the school board representatives to highlight those elements they believe to be most important in their Section 9 Proposal and to provide additional nuance or context for the Proposal. Although the Agency asked clarifying questions, the meeting provided an invaluable opportunity for the Agency to listen to the priorities and

concerns of the proposing districts and to acquire a better understanding of local systems and their options.

The Agency was committed to reviewing every proposal and entering every Conversation without prejudice. Although Agency staff discussed details of both the written proposals and the Conversations, they waited until they had met with the board representatives of all school districts before drawing any conclusions or making any decisions – as a team or individually.

### **C. “Snapshots” and Initial Data Points**

The Agency prepared a “Snapshot” of each proposal by inserting key passages from the Section 9 Proposal itself into the common list of topics provided to each school board in advance of its Section 10 Conversation. In some cases, the Snapshot also includes additional information gleaned from the Section 10 Conversation. If the board representatives prepared written responses to the common list of topics and provided them electronically, then those responses are included in the Snapshot as well. Finally, in some situations, if the written or verbal information provided by a district did not easily translate into responses to the common list of topics, then the board’s information is listed as notes rather than as responses to each topic.

The Snapshot for each district or group of districts is attached as Appendix F.

A common group of data points for each district or group of districts is attached as Appendix G.

Both Appendices list the districts in the same order that they appear in this proposal.

## IV. The Law's Goals and Mandates

As mentioned above, the law identifies the preferred model of school governance in Vermont to be a unified union school district with an average daily membership of at least 900 that provides for the education of its PreK-12 resident students in one of the four most common operating/tuitioning patterns and is large enough to function effectively as its own single-district supervisory union.<sup>17</sup>

The law requires the State Board to “move districts into the more sustainable, preferred model of governance” “to the extent necessary to promote” the Legislature’s stated purpose, except where it “is not possible or practicable” to do so.<sup>18</sup> Some mergers are not “possible” because the law does not permit the State Board to merge districts with unlike operating and tuitioning patterns.

The law’s stated purpose for requiring the State Board to create the final statewide plan is to “provide educational opportunities through sustainable governance structures designed to meet” the educational and financial goals of Act 46 concerning equity, excellence, and efficiency.<sup>19</sup>

The same legislative mandates and guidance govern development of both this proposal and the State Board’s final statewide plan.

### A. Mandated Elements

The law requires the statewide plan, “to the extent necessary to promote the purpose stated [above, to] move districts into the more sustainable, preferred model of governance set forth in Sec. 5(b)” of Act 46.<sup>20</sup>

It recognizes that there may be exceptions:

*“If it is not possible or practicable [for the statewide plan to merge districts, where necessary, into a Preferred Structure] in a manner that adheres to the ... protection for tuition-paying and operating districts[] or that otherwise meets all aspects of [a preferred structure], then the [Plan] may also include alternative governance structures as necessary, such as a supervisory union with member districts or a unified union school district with a smaller average daily membership” – “provided that” the SU is designed (1) to “ensure adherence” to the Sec. 4 protections for operating and tuition-paying districts (i.e., that only the electorate can decide whether to operate a school or pay tuition for the district’s students, and at which grade(s)) and (2) to “promote” the stated goals of Act 46.<sup>21</sup>*

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<sup>17</sup> Act 46, Sec. 5(b).

<sup>18</sup> Act 46, Sec. 10.

<sup>19</sup> Act 46, Sec. 10.

<sup>20</sup> Act 46, Sec. 10.

<sup>21</sup> Act 46, Sec. 10 (emphasis added).



Finally, it provides that that the “State Board *shall approve* the creation, expansion, or *continuation* of a supervisory union *only if* the Board concludes that this alternative structure:

“(1) is the *best* means of meeting the [Goals] in a particular region; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”<sup>22</sup>

Every type of education governance proposal must be evaluated not only on its own merits, but also on the impact it may have on the students, the districts, the region, and the State.<sup>23</sup>

The Secretary must post a proposed statewide plan on the Agency’s website by June 1, 2018. On or before November 30, 2018, the State Board of Education must “publish ... its order merging and realigning districts and supervisory unions where necessary.”<sup>24</sup>

## **B. Legislative Guidance**

Act 46 instructs the State Board, when creating the final statewide plan, to “be mindful” of actions that would result in the geographic isolation of a district from other districts of like structure, “including the potential isolation of a district with low fiscal capacity or with a high percentage of students from economically deprived backgrounds.”<sup>25</sup>

In addition, Sec. 5 of Act 46 as amended by Sec. 7 of Act 49 of 2017 lists the characteristics of a supervisory union with member districts that *may* satisfy the goals of the Act:

1. the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;
2. the supervisory union operates in a manner that complies with its obligations under 16 V.S.A. § 261a and that maximizes efficiencies through economies of scale and the flexible management, transfer, and sharing of resources among the member districts, which may include a common personnel system, with the goal of increasing the ratio of students to full-time equivalent staff;
3. the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns;
4. the supervisory union has the smallest number of member school districts practicable after consideration of greatly differing levels of indebtedness among the member districts; and
5. the combined average daily membership of all member districts is not less than 900.

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<sup>22</sup> Act 46, Sec. 8(b) (emphasis added).

<sup>23</sup> See, e.g., 16 V.S.A. § 706c(b); Act 46, Secs. 8 – 10.

<sup>24</sup> Act 46, Sec. 10(b).

<sup>25</sup> Act 46, Sec. 8.



## V. Thematic Observations

Although this document is necessarily composed of individual decisions based upon the specific circumstances identified in each Section 9 Proposal and Conversation, these proposals and conversations also brought into relief certain tenets and observations that inform the Secretary's recommendations. Taken as a whole these are:

### **Act 46 Work Requires Looking Beyond Current Boundaries**

Formulation of the following proposed plan required the Secretary to consider not only what might be best for the proposing district or group of districts, but also what was best for other nearby districts, the region, and the State. Likewise, when the State Board of Education considers this proposed plan, the Board will make its own judgments about the best means for ensuring sustainable education governance, not just for any one district's particular circumstances, but for other nearby districts, the region and the State as a whole. Furthermore, in the course of the Conversations required by Act 46, Sec. 10, many school board members, administrators, and community members have revealed that, even if resistant to Act 46 at first, they valued the self-evaluation and regional conversations Act 46 required and have learned valuable information about their own district and their region as a result.

School districts have, in the overwhelming majority, used the information gleaned from these activities as a catalyst to improve and expand collaboration with neighbors. In a few instances, however, Act 46's instruction for school district boards to look outside of current district and supervisory union boundaries has had a seemingly paradoxical effect. These districts have actually become more insular, exhibiting concern only with the students and taxpayers in their own town and not with the good of the region and the State as a whole.

### **Governance Change Cannot, on Its Own, Create Equity, Efficiency, and Opportunity**

Despite the many documented advantages of larger, more flexible governance units, governance change on its own does not automatically translate into more equity, excellence, or efficiency. School leaders must be prepared to take advantage of the flexibility provided by governance change.

A primary conclusion from Act 46 work to-date has been that successful system transformation takes time and is challenging work. Newly merged districts need to let go of who they were before they can focus on what their new community might become. In order to build strong collaborative governance, merging communities need to take time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision. In communities that have taken the time to build trust and common cause, the subsequent work of collaborating to reduce cost and improve quality becomes easier. As one superintendent noted: "We've learned we have to go slow now, in order to go fast later."

This proposal is made with awareness that districts that are ultimately required to change their governance structure by the State Board's final statewide plan but resist collaborative governance may continue to have many of the difficulties seen today (*e.g.*, program cuts; educator and administrator turnover; low test scores; performance gaps especially for students in poverty and on IEPs; increasing budgets/tax rates). This reality, however, is not a sufficient

reason for the Secretary's proposed plan to stop short of recommending the governance changes that are necessary to comply with Act 46.

### ***Small Schools Are Not Inconsistent with Sustainable Governance Structures***

There is no question that Vermonters prize small schools. Across all conversations and proposals, board members asked to retain their community-centered school (regardless of size) and the unique flavor of the local school. But what we define as small and what is nationally defined as small are two different things. In Vermont, we have "micro systems," where entire schools – and entire school districts – can be as small as 15 to 20 students. In some cases, the entire student body of one school could fit in a neighboring school seven minutes away on a paved road, without incurring additional cost, and we would still have student-to-teacher ratios that are less than half the national average.

In some cases, the geography of our rural mountainous state requires maintenance of very small schools. This is a separate consideration, however, from school *district* size. Small school *districts*, which lack the flexibility and resilience of larger systems, can face many impediments to equity, excellence, and efficiency.

Unified governance is not about closing small schools. It is about providing more equitable, high-quality opportunities and using resources more efficiently by taking advantage of the inherent flexibility of a larger governing entity. Act 46 included in its findings, "(i) Vermont recognizes the important role that a small school plays in the social and educational fabric of its community. It is not the State's intent to close its small schools, but rather to ensure that those schools have the opportunity to enjoy the expanded educational opportunities and economies of scale that are available to schools within larger, more flexible governance models."

Examples of the kind of opportunities described above can be found in the districts that pursued voluntary mergers in recent years. The Smilie Memorial School in Bolton, for example, was able to remain open only by working with its neighbors. The district that operated the Smilie School merged with other districts in the Chittenden East SU to form the Mount Mansfield MUUSD. Now the Mount Mansfield MUUSD offers school choice among its five elementary schools, including the Smilie School. The Rutland Northeast Supervisory Union merged its member districts into the Otter Valley Unified Union School District, enabling a shift of grades among existing buildings without any building closures. This restructuring created larger peer groups for its students, which the community felt was lacking in its previous structure. The Echo Valley Community School District (Orange and Washington) and the White River Unified District (Bethel and Royalton), both of which will be operational on July 1, 2018, are also shifting grades between schools to create larger peer groups and more age-focused programming.

### ***Act 46 Disfavors the Continued Existence of Supervisory Unions Where Merger is Possible***

Many of the Section 9 proposals and the subsequent conversations argued *against* joining a larger governance unit based on the premise that the district and its fellow supervisory union members currently collaborate very well and have achieved savings or operational efficiency within the existing supervisory union. The most frequent illustration of this argument was the

delivery of special education or transportation services on a supervisory union level, actions required by law since 2012. The fact that some efficiencies have been achieved within a supervisory union does not mean that the current structure is the best way to achieve efficiencies. There are obvious merits in removing this layer of additional structure.

Furthermore, Act 46 expressly identifies PreK–12 systems of 900 or more students as the preferred structure for meeting the five goals of the Act. There are efficiencies and opportunities available to a unified union school district that are not available to even the most efficiently run supervisory union. Preference for the structure currently in place or “the way we’ve always done things” is not sufficient to outweigh the legal requirement to create larger, more sustainable governance structures where possible and practicable.

### ***Assumption that Good Programs Will be Lost or Diluted in a Merger***

Some proposals expressed fear that programs currently offered would be eliminated or diluted in a larger governance structure by a merged board that included members from other communities that favor lowering tax rates. This was a particular concern in districts that have a greater actual or perceived wealth than their neighbors. While an understandable concern, it is equally likely that a successful program would be recognized as such and continued or expanded. There is no reason to assume that, within the same governance structure, other communities have less commitment to their children’s education. Moreover, the continued existence of a successful program would be more secure within a more flexible governance structure that demonstrates that it considers itself “to be collectively responsible for the education of all PreK-12 students residing in the supervisory union.” This is more readily achievable through a larger structure’s ability to weather enrollment decreases and to even out tax rate fluctuations.

### ***Diversity of District Structure Prevents Merger Unless Someone is Willing to Change***

No district is required to change its structure of operating or tuitioning one or more grades, whether through voluntary or mandatory merger, unless the voters of the district choose to do so. In approximately 19 of the 157 districts that voluntarily merged, the district’s electorate approved a change in the grades it operated or tuitioned. The majority of voluntary mergers, however, were undertaken by districts joining with like districts. For instance, seven districts (representing eight towns) that each operated a school through grade 8 and paid tuition for grades 9-12 merged into the Kingdom East Unified Union School District that operates seven schools offering kindergarten through grade 8 and pays tuition for grades 9-12.

Under the protections of Act 46, Sec. 4, the Secretary’s proposed plan cannot propose a merger that would combine two districts with unlike operating and tuitioning structures, nor may it propose that any district change its operating and tuitioning structure. As a result, there are necessarily regions where, as described in Act 46, Sec. 10, it “is not possible or practicable to develop a proposal that realigns some districts, where necessary, into an Education District in a manner that adheres to the protections of Sec. 4.”

## **Other Observations**

- Regardless of whether a larger, unified school district achieves any operational savings (there is initial evidence that many, in fact, do) larger governance units can serve to even out tax rate fluctuations and allow small schools to stay open or avoid eliminating programs in spite of external cost pressures, dips in enrollment, or unforeseen one-time costs.
- In many cases, Section 9 proposals submitted to the Agency illustrated that districts with smaller student-to-teacher ratios had staffs with lower pay, on average, than neighboring districts. This inability to pay a competitive salary often means that a small district struggles to retain experienced licensed educators or suffers from high turnover.
- Similarly, many districts described the practice of employing part-time teachers – sometimes in concert with other districts within a supervisory union, allowing an individual employee to earn a full FTE, but with multiple contracts and multiple employers – often leading to high turnover when full time positions are available in other districts.
- Many boards making Section 9 Proposals repeated similar statements about the desire for local school boards, school-level decision-making, and citizen involvement. Paradoxically, many of the same boards stated that they frequently hold uncontested school board elections, have difficulty finding board members, see low attendance at board meetings, and have low voter turnout in the structures that exist today.
- In districts that had unsuccessful unification votes, a variety of explanations were offered for the “no” result. Some cited lack of information, bad information, or misinformation while others cited timing of the vote leading to very low turnout. On the whole, the proffered explanations may or may not be a good indicator of a community’s feelings about what would really occur in a merger and, for the reasons explained more fully below, are not given great weight in this proposed plan.
- The Legislature determined that a unified district is the structure most likely to meet the Act 46 goals, including the 2<sup>nd</sup> Goal: to “lead students to achieve or exceed the State’s Education Quality Standards.” The self-analysis in many Section 9 Proposals underscored the reality that comparison of test scores is generally not helpful in Vermont’s small schools because class sizes are often too small to permit disaggregation by poverty, special needs, gender, or any other factor. In addition, in many instances it was impossible to report data at the school or grade level in way that does not disclose how a particular cohort of students performs on standardized tests. As such, there is often no basis to challenge the Legislature’s presumption that merger will lead to better results.

Abundantly clear throughout the process is that most school boards care greatly about their students. Agency of Education staff who have worked with and spoken with these dedicated public servants are heartened by the grace and concern for students evident from many of the representatives and their proposals.

There were also less encouraging sentiments expressed during Section 10 Conversations. Many school board members discussed their neighbors with what can only be described as thinly disguised socioeconomic bias. Some school board members explicitly stated they only care about their “own” students. Some school board members spoke only in terms of taxes and

taxpayers or the ability of local citizens to maintain, improve, and make decisions about the physical school building itself, with little or no mention of student opportunity, equity, or needs. Lost in this is the fact that all students, whether residing in the district or not, are funded by the same statewide system that has as its foundation the principle that all Vermont students must be afforded educational opportunities that are substantially equal.

This proposal is guided by what the law requires and what is, based on the available evidence, best for *all* students in Vermont.

## VI. District Mergers –Proposals and Analysis

### **Definitions of Essential Terms**

A **union school district** (“USD”) is a single legal entity encompassing two or more towns that is organized to provide for the education of all students of the member towns in the specific grades for which the district was created – *e.g.*, a **union high school district** (“UHSD”) or a **union elementary school district** (“UESD”). .

A **unified union school district** (“UUSD”) is a type of USD that is responsible for the education of resident students of the member towns in all grades, PreK-12, whether by operating all grades, tuitioning all grades, or operating some grades and tuitioning others.<sup>26</sup> (The words “**merger**” and “**unification**” and their grammatical variations are used interchangeably throughout this document.

A **supervisory union** (“SU”) is an administrative, planning, and educational service unit that provides services on behalf of member school districts.

A **supervisory district** (“SD”) is a type of SU that consists of a single district town district (*e.g.*, Burlington; Springfield) or a single UUSD (*e.g.*, Maple Run; Mill River).

The Legislature determined that the “**preferred structure**” for school districts in Vermont is a UUSD that is large enough to operate as its own SU (*i.e.*, an SD). In addition to the legal and structural flexibility inherent in all UUSDs, a district that is large enough to be its own SD eliminates both the overarching administrative layer of an SU and its board as well as the SU assessments over which voters have no direct control.

The Legislature identified an **alternative governance structure** (“AGS”) as any structure that is not a “preferred structure,” and indicated that two examples are an SU with multiple member districts (*i.e.*, not an SD) and a UUSD with an average daily membership (“ADM”) that is smaller than the optimal 900.

**Average daily membership** (“ADM”) is a 20-day full-time equivalency of the number of resident students for whom a district provides education at public expense. It is distinguished from enrollment, which is the number of students enrolled in a school as of a specific date, regardless of their district of residence.

This Part VI of the proposal address potential district governance mergers of school districts into UUSDs and UESDs. SU boundary changes are addressed in Part VII below.

### **UUSDs as the “Preferred Structures”**

When districts merge to form a UUSD, the underlying, merging districts dissolve and the UUSD is a single legal and structural entity even though it may continue to operate multiple community-based schools. This multi-town, unified entity has an inherent flexibility that, if

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<sup>26</sup> 16 V.S.A. § 722.



utilized, can lead to increased educational opportunities and equity, improved efficiencies, and decreased costs and tax rates.<sup>27</sup>

For example, a UUSD's structure enables (or makes it much easier for) the district to:

- Share staff, resources, and programs among the schools the UUSD operates.
- Offer intradistrict K-6 or K-8 choice among the schools the UUSD operates.
- Transform some or all of the UUSD's elementary schools into magnet schools that focus on and enhance the unique strengths, programs, and environment of each school.
- Improve communication within and between schools, departments, and grade levels to support district-wide initiatives such as better alignment of world languages across buildings and more consistent preparation for the transition to high school.
- Eliminate administrative redundancies and centralize supports so that administrators are able to focus on their roles as educational leaders.
- Create a unified program of educator recruitment, induction, and mentoring, including for paraprofessionals and substitute teachers.
- Reconfigure grades among existing buildings to address shrinking population, create more robust peer groups, and provide other educational benefits.
- Maintain or improve programming while decreasing costs by, *e.g.*, managing student-to-staff ratios, taking advantage of staff attrition, repurposing facilities, and centralizing maintenance services and training.
- Provide clear accountability for student outcomes beginning in prekindergarten and continuing until grade 12.

Even if a UUSD declines to take advantage of the inherent flexibility in its structure, the larger total student population in a UUSD minimizes tax rate fluctuations caused by enrollment changes or by an increased need for special services.

### ***Legal Mandate***

As explained more fully above, the law requires that the statewide plan, "to the extent necessary to promote the [educational and fiscal goals of Act 46] move districts into the more sustainable, preferred model of governance."

The Legislature acknowledged that the statewide plan may also include "alternative governance structures *as necessary*, such as a supervisory union with member districts or a unified union school district with a smaller average daily membership" "*if* it is not possible or practicable [to merge districts into the preferred structure] in a manner that adheres to ... the ... protection for tuition-paying and operating districts" or "that otherwise meets all aspects of" a preferred structure.<sup>28</sup>

The State Board's final statewide plan may include multi-district SUs "*only if* the Board concludes that this alternative structure ... is the *best* means of meeting the [Goals] in a

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<sup>27</sup> Although most of the new UUSDs created under the voluntary phases of Act 46 are not yet operational, UUSDs have begun to report examples of increased educational opportunities and equity, improved efficiency, and lowered costs. See the January 2018 Report to the General Assembly, attached as Appendix C, at pages 9-11, for examples.

<sup>28</sup> Act 46, Sec. 10 (emphasis added).

particular region; and ... ensures transparency and accountability for the member districts and the public at large<sup>29</sup>

In general, statutes require that the State Board review every type of education governance proposal not only on its own merits, but also on the impact it may have on the students, the districts, the region, and the State.<sup>30</sup>

This proposal includes recommendations that the State Board unify the governance structure of some districts. *It is important to understand that each recommendation is grounded on the underlying belief that if the State Board requires unification, then the involved districts will embrace the flexibility and opportunities inherent in a larger governance structure and will work together to improve educational opportunities and equity for all students and to increase fiscal efficiencies.*

### **Final Note**

The reader will note that certain analyses are repeated across the full set of recommendations. Although this will no doubt be tedious to someone reading the entire document, it was done intentionally so that readers interested only in a particular recommendation would have access to a full analysis of the Secretary's decision for that proposal.

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<sup>29</sup> Act 46, Sec. 8(b) (emphasis added).

<sup>30</sup> See, e.g., 16 V.S.A. § 261 and § 706c(b); Act 46, Secs. 8–10.



## A. Existing Union High School Districts and Their Member Elementary Districts

Structurally, a union high school district and its member elementary school districts are the districts most easily unified into a new UUSD. This is especially true if all member elementary school districts share the same operating/tuitioning pattern. For example, if each town elementary district operates a school offering kindergarten through grade 6 and these districts are members of a single union high school operating grades 7-12, then the districts can merge into a single multi-town UUSD that provides for the PreK-12 education of the students in all member towns by operating multiple elementary school buildings and one secondary school without the need for the voters of any elementary district to vote to change its operating/tuitioning pattern.

As a practical matter, this configuration of districts is the most likely to form a UUSD because the member towns have a history of working together to operate the union high school and – perhaps most significantly – are more likely to think of all students enrolled in the union high school as “our” students, rather than the students from Town A or Town B.

Finally, in most instances, the combined ADM of an existing union high school and its member elementary districts renders the UUSD “large enough to support the planning and administrative functions of a supervisory union” as required by 16 V.S.A. § 261(c) – and thus it is capable of being a “preferred structure.”<sup>31</sup>

The districts discussed in this Part VI, Subpart A are divided into three categories:

- Union High School Districts with member elementary districts that provide for the education of their resident students under the same operating/tuitioning structure are under the subheading “**Traditional UHSDs**”
- Modified Unified Union School Districts that have one Non Member Elementary District are under the subheading “**MUUSDs and NMEDs**”
- Union School Districts with at least one member district that has an unlike operating/tuitioning structure are under the subheading “**USDs with Un-Like Members**”

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<sup>31</sup> The Legislature’s “Phase 1 – Accelerated Merger” program was designed to encourage creation of UUSDs that are their own SDs by districts where structure, practicality, and size made unification most likely to occur.

## **a. Traditional UHSDs**

For each of the five union high school districts addressed under this subheading, all of the member school districts share a common operating/tuitioning structure for the grades for which they are independently responsible.

### **1. The Brattleboro Union High School District and its Four Member Elementary Districts (Brattleboro; Dummerston; Guilford; Putney)**

The Windham Southeast SU consists of the Brattleboro, Dummerston, Guilford, and Putney School Districts, each of which operates an elementary school and each of which is a member of the Brattleboro Union High School District. The SU also includes the Vernon School District, which is a single-town PreK-12 district that operates a school through grade 6 and, beginning in FY 2019, pays tuition for its students in grades 7-12.

The K-12 ADM in FY 2018 is as follows:

Windham Southeast SU (K-12) –  
    Brattleboro (K-6) – 713.15  
    Dummerston (K-8) – 142.00  
    Guilford (K-8) – 130.90  
    Putney (K-8) – 156.65  
    Brattleboro Union High (7/9-12) – 816.27  
    Vernon (K-6 o / 7-12 t) – 299.45  
    Brattleboro UHSD (7/9-12) – 816.27

Over the last five years, data reflect that the K-8 ADM for the Brattleboro, Dummerston, and Guilford Districts has steadily declined by between 5.3% and 6.6%. Although the Putney School District saw drastic declines in both FY 2016 and FY 2017, its FY 2018 ADM as risen to be nearly identical to that in FY 2014. The Union High School District experienced the most dramatic loss of ADM, decreasing by nearly 15% since FY 2014.<sup>32</sup>

The districts of the Windham Southeast SU formed a § 706 study committee in September 2015. The study committee unanimously endorsed a proposal to create a UUSD and the four elementary district boards presented the committee's report and proposed articles of agreement to the voters on November 7, 2017. The voters did not approve the proposal:

Brattleboro – 375 Yes; 850 No  
Dummerston – 91 Yes; 473 No  
Guilford – 161 Yes; 262 No  
Putney – 171 Yes; 370 No

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<sup>32</sup> This was due to the Vernon ADM being counted at the Vernon School District as opposed to the Union High School District.

## **The Districts' Sec. 9 Analyses and Proposals**

Each of the four member districts of the Brattleboro UHSD submitted a Section 9 Proposal independently of the others, all of which are addressed separately below. The Dummerston District submitted a joint proposal with the Vernon District, which is a member of the SU but not of the Brattleboro Union High School District. The discussion below focuses on the Brattleboro Union School District and its four member districts. See Part VI(C)(b) for a discussion of the Vernon School District.

For more details, see the districts' Snapshots at Appendix F; common data points at Appendix G; links to the Section 9 Proposals at the [School Governance / Sec. 9 Proposals webpage](#); and the Study Committee's Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### ***The Brattleboro Elementary School District***

Although the current Brattleboro Board Members are not unanimously in favor of the Board's proposal to create a UUSD, a "majority believe the Articles developed by the WSESU Act 46 Study Committee provide the best solution for meeting the goals and objectives of the law. Additionally, [these members] wish to continue to build upon the momentum gained over the last two years towards achieving a region-wide collaborative approach to the education of the children in [the] region."

For more than two years, the study committee reviewed and compared educational opportunities, demographics, behavioral and other supports available throughout the school day, along with costs and assessment results. It also compared the current staffing patterns in the various schools with potential staffing in a unified system.

The study committee envisioned that unification would result in a single mission and vision that would benefit all students in the region regardless of the town in which they reside, while preserving what makes each school community unique. Anticipated educational benefits included opportunities to offer comprehensive extended day and summer program throughout the unified district; to allow elementary students to enroll in the school with the size and focus that best fits the student's needs and preferences; to provide better continuity for students whose families move from one town to another within the unified district; and to attract and retain high quality teachers based on an ability to offer full-time positions and who can be shared or transferred as needed.

The study committee observed that the SU experienced system-wide savings from the previous consolidation of transportation, food service, collective bargaining, and special education and anticipated that district unification would result in additional savings by gaining "flexibility to adjust staffing assignments to maximize student/teacher ratio" as well as through more efficient financial planning, streamlined accounting systems, larger scale purchasing, and consolidation of custodial services. The committee identified initial, ongoing cost reductions of \$100,000 in connection with audits, board stipends, and professional and technical services. In addition, it anticipated potential cost reductions of \$1 million over a three-to-five year period due to increased student-teacher ratios and implementation of more flexible staffing patterns.

During the April 6 Conversation, the Brattleboro School District Board Chair, who had also been a member of the § 706 study committee, described compromises in the proposed articles of

agreement designed to address concerns expressed both by the smaller districts fearful of school closure and also by Brattleboro, which has a larger and less affluent population than the other districts. The Chair also identified what a majority of the Board considers to be weaknesses in the *WSESU Alternative Governance Structure Proposal* (“AGS Proposal”), which has been adopted by the Dummerston and Vernon Boards and is addressed below, noting for example that the AGS proposal suggests sharing teachers by hiring them at the SU-level while also stating the importance of maintaining local control.

A member of the Brattleboro Board who does not support district merger expressed concern that unification would result in an unsustainable system. The member provided charts forecasting significant tax rate increases for citizens of Brattleboro, the town with the highest poverty levels. The member is fearful that a tax rate increase, together with his prediction of decreased public participation and transparency (due to decoupling the district from Brattleboro’s unique Representative Town Meeting structure and the adoption of Australian balloting), would lead to the rejection of school budgets and the need for programmatic cuts.

The second board member opposed to district unification opined that citizen engagement is at the core of democracy. Stating that fewer people are voting and that it is increasingly difficult to find candidates to run for school board seats, the member argued that local school boards provide opportunities for community and connections that are undermined by a centralized board, meetings held in other towns, “little representation” on a board, and “no provision for the dissemination of information.”

### ***The Dummerston Elementary School District***

The Dummerston and Vernon Boards jointly endorsed the analysis and proposal developed by the Alternative Governance Structure (“AGS”) Proposal Committee. Because the Vernon School District is an independent PreK-12 district that, unlike the other town school districts in the SU, is not a member of the union high school district, it is discussed separately below in Part VI(C)(b).

The AGS Proposal urges the State Board to permit the Windham Southeast SU and its member districts to retain its current governance structure – four town elementary districts; one union high school district; and one PreK-12 town district (Vernon), which is K-6 operating / PreK and 7-12 tuitioning.

The AGS Proposal includes a list of actions by which it believes the districts could meet and/or exceed the educational and fiscal goals of Act 46 in a sustainable manner. For example:

- School-Based Community Leadership Councils (CLCs) – Create a volunteer committee for each PreK-8 district with “at least one school board member, a teacher, a parent, an administrator, an interested citizen, and student representatives, where deemed appropriate ... to discuss and work towards an understanding of the needs (and strengths) of each school.”
- Opportunity and Equity Committee (OEC) – School Board members serving on the CLCs would meet as representatives to this “official committee.” The OEC Committee would:
  - Meet “regularly to investigate, propose and recommend equity and efficiency initiatives throughout the [supervisory] union.”

- Participate at full board “carousel” meetings to update the SU board members on “compliance with Act 46 goals and to set collective goals for efficiency and equity.”
- Engage the “districts in collaborative efforts and resource sharing to accomplish cross-district equity instead of the current practice of only focusing on local budgets at Town Meetings.”
- Perform additional functions described below.
- Regional Education Assistance Fund – The AGS Proposal suggests that the “WSESU investigate initiating a Regional Education Assistance Fund. It is proposed that all districts contribute to this fund to improve equity and efficiency, transparency and accountability supervisory-union wide. Alternatively, the REA fund could be created through a process of SU assessment.”
  - The OEC Committee would “determine the best use for REA funds and make recommendations to the full Supervisory Union board”
  - “Funding apportionment should be sensitive to factors agreed by the OEC committee and proposed to the SU as appropriate”
  - “Cost-savings found through increased staff sharing identified by the Opportunity and Equity committee might effectively offset REA contribution costs.”
- Limited Student Transfer Policy – The districts would adopt a policy that allowed a limited number of students to enroll in another district’s elementary school, noting that enrollment “flexibility can also provide incentives to parents for enrolling students in the public school system, rather than private schools, as studies have shown that availability of only a single desirable school feature can often make or break a placement decision.”

The AGS Proposal acknowledges that there are inequities in student outcomes within and among the districts. It notes, however, that “consolidation alone will not, in and of itself, remove these differences. Similar disparities exist among the consolidated [sic<sup>33</sup>] three schools of our largest town district. ... Focused remediation within the limits of available resources must occur across any governance system.”

The Proposal states that the current, single-town school board structure “allows for immediate local access by constituents, and these boards can take rapid responsive action. ... Our larger consolidated [sic<sup>34</sup>] school district, Brattleboro, does not provide quite the same level of simple local community access.” At the Conversation, the Dummerston Board indicated that it has never had a problem finding candidates eager to serve on the school board and, in fact, had a contested seat in March.

In addition, the AGS Proposal states that “cross-district problem solving is possible to achieve within a cooperative union structure and has in fact occurred in the past.”

The AGS Proposal summarizes the primary barriers to merger as:

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<sup>33</sup> The AGS Proposal repeatedly refers to the Brattleboro Elementary School Districts as an example of a “consolidated” district. Brattleboro is not a consolidated district. It is a single-town district that operates more than one school. In structure, it is no different than the nearby Rockingham and Westminster Elementary Districts, both of which operate more than one elementary school.

<sup>34</sup> See previous footnote.

- The voters of each district rejected the Study Committee’s merger proposal
- Putney has capital debt; Dummerston has no capital debt
- Differing sizes of towns mean disparate voting power
- Vernon cannot be merged because it pays tuition for some grades and does not want to change that practice
- Brattleboro’s taxes will increase in a merged district

### ***The Guilford Elementary School District***

The Board of the Guilford Elementary School District proposes that the State Board merge the districts as set forth in the § 706 study committee’s report and proposed articles of agreement (*see* the Brattleboro section above for an overview of the study committee’s conclusions).

In recent years, the Guilford School District has experienced a steady decline in its student population, although its prekindergarten program is at capacity and has 15 or 16 children on a waiting list. The Guilford Board foresees educational opportunities in a merged district to include development of a regional middle school program. The Board notes that because of the district’s small and declining student population it has fewer programs and a higher per pupil cost than Brattleboro, which has a higher level of poverty.

The Guilford Board repeatedly emphasized that the district is not sustainable in its current form. The Board predicts that if Guilford remains a single-town elementary school district, then it will ultimately be forced to eliminate the programs and opportunities that make its school special. It believes that the school is more likely to remain open and vibrant if the districts are merged as a result of, *e.g.*, intra-district school choice; the ability to share programs and staff; and more stable tax rates due to a larger total ADM. In addition, if declining student populations make it necessary to consolidate elementary students into a smaller number of buildings, then the Board believes that merger would enable the unified district to address challenges faced throughout the entire merged district by closing one of Brattleboro’s three elementary school buildings and continuing to operate elementary grades in the more rural buildings.

The Board observes that the AGS Proposal (*see* the Dummerston section above) adds complexity to the existing group of systems and does not sustainably address issues arising from a small district’s declining population and rising per pupil costs.

The Board’s Section 9 submission states:

The GTSB is very much aware of the driving forces behind Act 46, and has felt first-hand the impacts of declining enrollment and rising costs on Guilford Central School. We have made tough budget decisions and been forced to limit programming opportunities in an effort to keep costs affordable to our tax payers. We have experienced the fluctuations in annual enrollments and the subsequent effect on our ability to respond to the changing needs of our students while controlling costs. We recognize the necessity for imminent change.

Our biggest challenge is the volatility of our cost per student, and the impact that calculation has on our school offerings and our long term



sustainability. The path to compliance with Act 46 for Guilford school must directly address that challenge.

### ***The Putney Elementary School District***

After the failed merger vote in November 2017, the Putney School Board surveyed its community in an attempt to better understand “community values, how to address increasing costs in light of decreased enrollment, what to retain or expand in the Articles of Agreement, and recommendations for the future of education in Putney.” The Board considered many options including “keeping our School Board, merging with Dummerston and/or Guilford, Marlboro and Westminster; giving all kids school choice; and] turning PCS into an independent school.” In addition, Putney Board Members participated in the committee that developed the AGS Proposal (*see* the Dummerston section, above).

Although the Putney School Board believes that the district will be sustainable only if changes are made, the members do not agree on the nature or scope of those changes. As a result, the Board’s submission under Section 9 “serves as a report of [its] understandings rather than a declaration as to how [the] district should best comply with Act 46 and Act 49.” At least some of its members, however, believe that the AGS Proposal would dilute Putney’s ability to take care of its students without allowing any community in the SU to reap the tax rate benefits of an increased ADM.

As noted above, Putney’s K-8 ADM has risen in FY18 until it is nearly equal to its ADM in FY14. In addition, the district has experienced increasing enrollment in its full-time PreK program. The Board notes that the district has begun to enroll fewer grade 7-8 tuitioning students from Westminster, speculating that the decrease is due both to completion of renovations at the Bellows Falls Middle School and a reported Westminster Board policy discouraging enrollments outside the SU. Nevertheless, the Putney Board is hopeful that the district’s ADM will continue to rise when a new 22 unit housing project is completed and helps to ease the town’s shortage of affordable housing.

The Board’s Section 9 submission notes that more than 40 percent of its elementary students are eligible for the Free and Reduced Price Lunch program, an indicator of poverty. Grants have enabled the district to implement the same enrichment programs as other districts in the SU, including individual and small group after-school tutoring programs, but the Board has had to integrate them more slowly due to budgetary concerns. Despite ADM fluctuations and the needs of its students, the Board has successfully developed a budget that has been just below the excess spending threshold in each of the last five years.

The Board reports that: it has a chronic problem recruiting board members, few residents attend Board meetings, and it is cost-prohibitive to broadcast meetings on community access TV.

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

A large percentage of the electorate voted against unification in all four towns of the BUHSD. Nevertheless, the Section 9 Proposals offered by the four member districts are not uniformly in opposition to or in support of merger: Boards of two districts propose that the State Board require the districts to create a UUSD (one by a closely divided Board vote); the Board of one district believes that changes are necessary to ensure sustainability, but does not recommend any specific actions; and the fourth Board endorses the AGS proposal, which proposes to retain the current governance structure, and form committees to achieve the goals of Act 46 in a sustainable manner. Each of the Boards, in its own way, acknowledges that the districts must begin to interact in a different, more collaborative manner in order to sustainably meet the educational and fiscal goals of Act 46.

The AGS Proposal submitted by the Dummerston Board alleges that differing levels of capital debt are a barrier to merger. Basing a decision on debt levels is short-sighted, and – given the Legislature’s identification of a UUSD as the best means to sustainably achieve the Act 46 goals – should not be the sole or primary reason to prevent merger where it is otherwise the best alternative. Although assumption of a portion of one district’s capital debt may result in tax increases under the districts’ modeling, the increases may be mitigated by savings that could result from approaching the possibilities of merger in a creative manner. In addition, today’s district with little or no debt will tomorrow become the district that needs a new roof. In other words, long-term decision making should not be based on point-in-time circumstances. Finally, capital debt does not last forever, it is eventually paid off. Districts need to take the long view when determining what will best serve their students, particularly in small districts with steadily declining populations, increasing budgets, or unstable tax rates.

Similarly, a contention that unification will raise tax rates for one or more groups of taxpayers cannot be the sole reason to prevent merger, particularly where there is no evidence that the calculation resulting in the projected increase accounted for the potential savings that can be realized by the creative and efficient use of the unified district’s resources and flexibility. Experience throughout the State demonstrates that decreasing student population in a small district is not sustainable and ultimately leads to a downward spiral of increasing tax rates,



reduced programming, and frequent staff turnover. Larger governance structures have been shown to provide the flexibility needed to mitigate annual budget and tax increases, moderate tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded.

Merger is not “impossible” or “impracticable” because of community opposition. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers and it is understandable that a school board endeavors to “respect” the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

Some Board members claim that maintaining decision-making at the local board-level and approving district budgets at Town Meeting are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget that is amended and voted on “from the floor” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that the “preferred structure” with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

Some variation of the transition from local to more centralized decision-making has occurred in each of the new UUSDs created under the voluntary merger programs enacted by the Legislature. In most of those unified districts, the articles of agreement require formation of community-based entities that advise and otherwise serve as a bridge between the local community and the unified board. In addition, it is important to note that, other than the initial vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions “from the floor.”

A related concern has also been expressed that a smaller district’s proportionally smaller representation on a unified board will lead to: reduced programmatic offerings in favor of lowering tax rates or at urging of communities perceived as less willing to support budgetary increases at the polls; failure to perform needed or desired structural improvements to school buildings in smaller towns; and the ultimate closure of smaller, more rural elementary schools.

Even assuming that the members of a unified board are incapable of learning to view all of the district's students as "our" students rather than as students of "either my town or some other town," this concern has little merit if the merging districts allocate members of an equal or more similar number to each town under the Hybrid Model of board representation.

The Dummerston Board's AGS Proposal argues, in part, that merger will decrease responsiveness, transparency, and accountability by eliminating local control of the region's elementary schools. Many of the Board's proposals, however, result in less local control, responsiveness, transparency, and accountability than are found not only in a unified district but also in the current structures the Dummerston Board wishes to protect.

For example, the AGS Proposal suggests that the smaller, more rural districts can increase programmatic offerings and create a more stable workforce of full-time staff by sharing teachers and other professionals who would be hired by the SU. In such an arrangement, the respective cost of each SU-level employee would be allocated to the districts in which the employee works. The local board would thus have a diminished personnel-related role in relation to the SU's employee and the voters would have no ability to control or reject the costs the SU allocates to the local budget.

The Dummerston Board alternatively suggests that each interested district could hire the same individual for a fractional position, all of which would total 1.0 FTE. Small districts have employed this approach throughout the State for many years. Although it is at times a successful strategy, more often districts report either that highly valued employees leave for a single full-time position with full benefits in a larger, often unified, district or that the candidates interested in cobbling together employment through a series of part-time contracts are less well qualified. While this approach may be all that is available in some regions of the state – especially where districts cannot merge unless the voters agree to change the current operating/tuitioning structures – it is an inherently unstable one.

The Dummerston School Board's AGS Proposal also suggests the possible creation of a Regional Education Assistance Fund to promote equity and sustainability among the districts' elementary schools. An Opportunity and Equity Committee, comprising the school board members of each proposed School-Based Leadership Council, would meet "regularly to investigate, propose and recommend equity and efficiency initiatives throughout the [supervisory] union." The Committee would also "determine the best use for REA funds and make recommendations to the full Supervisory Union board."

The Dummerston Board proposes either that all districts would voluntarily contribute to the Regional Education Assistance Fund or that the SU would allocate a proportionate cost of the Fund to each district for inclusion in that district's local budget. While undoubtedly creative and well-intentioned, this intricate structure assumes that voters in each independent district will voluntarily agree to raise their own taxes to support a fund that will ensure equity in other districts – but that those same voters would not be willing to agree to support increased taxes to support a unified budget working to support equitable opportunities for the students of the entire region. Alternatively, if the SU were to allocate a proportional share of the Regional Education Assistance Fund's costs to each member district, then those costs would become one more line item in the local budget over which the local voters have no control – and which could negatively affect their ability to fully fund the programs in their own elementary school.

If the Dummerston Board’s suggestion that “[c]ost-savings found through increased staff sharing identified by the Opportunity and Equity committee might effectively offset [the Regional Education Assistance Fund] contribution costs,” then similar cost-savings in a unified district could very well lower the increased tax rates that the Board fears are likely to occur in Brattleboro. Finally, finances aside, the Secretary can find no argument supporting creation of a multi-layered structure and special funding mechanism to identify inequities and then to raise and provide funding to alleviate them, when a unified district and its board are designed to accomplish the same result in a simpler and more sustainable manner.

The AGS Proposal’s simplest suggestion – a multi-district policy permitting limited elementary school choice – is a reasonable option for districts where merger is not possible or practicable. For the member elementary districts of the BUHSD, however, the proposal is not as effective as the broader and more accessible ability to support elementary school choice in a unified district, much less the “best” approach for the region.

The Secretary agrees with the districts when they state their beliefs that their current structures are not sustainable and will lead to reductions in programming and staff. Guilford in particular recognizes current trends and believes that the best chance for preserving what is unique about its school lies in making the structural changes that would allow the ability to share programs. It also sees in merger the opportunity to participate in a regional middle school while retaining its elementary school. While not all the schools are feeling the effects of declining students as acutely as Guilford, all of them face the issue.

Of the BUHSD member boards making proposals, the Dummerston School Board was the only board that unambiguously proposed a result other than merger. That Board’s argument that the AGS Proposal is the “best” means of creating a sustainable structure capable of meeting the Act 46 Goals is not convincing enough to overturn the Legislature’s presumption that a UUSD is the “preferred” means of doing so.

No facts have been presented that support a conclusion that merger is not “possible” or “practicable” in this instance, nor can the Agency identify any other facts that would do so. In addition, the unified district would be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a “preferred structure.”<sup>35</sup>

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary trusts that the communities’ concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

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<sup>35</sup> The State Board would need to decide whether to move the Vernon School District’s membership to another SU, such as the Windham Central SU, in order to enable a Brattleboro-Dummerston-Guilford Putney UUSD to operate as a single-district SU. Alternatively, the State Board might choose to maintain the Windham Southeast SU structure with the B-D-G-P UUSD and Vernon District – and possibly other districts, such as Marlboro – as members.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to merge the governance structures of the Brattleboro Union High School District, the Brattleboro School District, the Dummerston School District, the Guilford School District, and the Putney School District into a single unified union school district that provides for the education of its PreK-12 students by operating multiple schools.*

The Secretary makes this recommendation because the Legislature has determined that a larger governance structure, with its inherent flexibility and opportunities, is the best means of meeting the Act 46 goals, which is the loadstone for this document. However, this recommendation is made with the full awareness that without the commitment of the communities to create a new definition of “us,” potential opportunities will not be realized and unification may be blamed for any encountered difficulties.

## **2. The Missisquoi Valley Union High School District and its Three Member Elementary Districts (Franklin; Highgate; Swanton)**

The Franklin Northwest SU consists of the Franklin, Highgate, and Swanton School Districts, each of which operates an elementary school and is a member of the Missisquoi Valley Union High School District for grades 7-12. The SU also includes the Sheldon School District, which is a single-town PreK-12 district that operates a school through grade 8 and pays tuition for its students in grades 9-12.

The K–12 ADM in FY 2018 is as follows:

Franklin Northwest SU (K-12) – 2,000.50  
Franklin (K-6) – 99.1  
Highgate (K-6) (K-6)– 300.10  
Swanton (K-6) – 521.1  
Missisquoi Valley Union (three towns; 7-12) – 747.79  
Sheldon (K-8 o / 9-12 t) – 338.60

Data reflect that since FY 2014 the Franklin’s ADM has declined by 23.86%, while Missisquoi has experienced a more modest decline of 10%. The ADM for the Highgate and Swanton Districts have fluctuated during the last five years, ending in a slight increase of 6.4% and 0.96% respectively.

### **Districts’ Sec. 9 Analysis and Proposal**

The districts submitted a joint Section 9 Proposal. The discussion below focuses on the Missisquoi Union District and its member districts. *See* Part VI(C)(a) for a discussion of the Sheldon School District.

The Franklin Northeast SU districts did not participate in a § 706 study committee or present a merger proposal to their voters. In November 2017, however, they asked their voters if they approved submitting a Section 9 Proposal recommending that the districts and SU maintain their current governance structures. The voters in each district supported the recommendation as follows:

Franklin -- 161 Yes / 0 No  
Highgate – 103 Yes / 1 No  
Swanton– 148 Yes / 105 No  
Sheldon – 87 Yes / 0 No

The Section 9 Proposal recommends approval of an “Enhanced Alternative Governance Structure” – *i.e.*, maintaining the same governance structure while addressing weaknesses identified during the process of self-analysis in order to “Act Merged – Stay Local.” The Districts state that it “is not the intention of our ‘Enhanced FNWSU AGS’ to be satisfied with just meeting the goals of Act 46. FNWSU intends to explore new ideas which may have never been tried, or even thought of, to exceed the goals of Act 46.”

After conducting the self-analysis required by Act 46, Sec. 9, the districts conclude that there are no major issues of equity among the elementary schools, with time spent and access to programs being substantially the same. The analysis revealed that there are “gaps” in middle school programs for which the districts have developed action plans. The districts report that

staff have equal access to professional development opportunities as well. Turnover varies from school to school, but the Highgate District has had a high administrator turnover (four principals in seven years). The districts have experienced the phenomenon of young professionals teaching in the Franklin Northwest SU districts for a few years to gain experience before accepting a position in Chittenden County.

The Section 9 Proposal reports that although the districts have aligned their curricula, they do not have uniform results on standardized testing and are examining methods of delivery of instruction and accountability. Further, the districts have determined that although information flows well from the elementary schools to the UHSD, the reverse is not true. The districts report that they are working to address this as well.

Some of the specific improvements and action steps identified in the Section 9 proposal include:

- “Research and implement” elementary/middle school choice among the districts of the SU; possibilities include: five students in and out per year with school board approval; splitting ADM 50/50 between the sending and receiving districts.<sup>36</sup>
- “Investigate a foreign student/out of state student team to research and develop a system designed to attract foreign and out of state students to enroll at” MVU MS/HS – from China, Canada, and New York.
- “Implement curriculum focus and accountability measures to ensure all students are provided equitable learning opportunities (i.e., all teachers using and implementing same curriculum) and learning successes.”
- “Establish an ‘Instructional Resource Team’ to promote access to learning opportunities and ensure all students are afforded educational opportunity.”
- “create site-based school improvement team” (Principal, Guidance Counselor, Math Teacher, Literacy Teacher, SpEd Teacher) – “to create, monitor, and update all site-based continuous school improvement plans.”
- “formally establish[] an SU level school improvement team.”
- “Continue exploring and sharing resources” although the Proposal notes that “Many of the efficiency measures being adopted by merging districts ... have already been implemented by FNWSU.”

In support of maintaining the same governance structure while working to improve upon identified weaknesses, the Section 9 proposal makes the following points:

- The Franklin District has high test scores and low taxes – merger will increase the cost per pupil and tax rates in Franklin and will not increase student performance.
- The residents of all districts “made it clear” in the November 2017 vote that they want to maintain local control and that “town identity was critical to them.”<sup>37</sup>

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<sup>36</sup> This could be done only if the Legislature amends current law.

<sup>37</sup> The text of the question voted by the electorates of Franklin, Highgate Sheldon and Swanton was, “Should the [Town] School District, with other members of the Franklin Northwest Supervisory Union, propose to the Vermont State Board of Education to enhance the current operation of the Franklin, Highgate, MVU, Sheldon and Swanton school boards (which is an enhance Alternative Governance Structure as defined in the Act 46/49 law)?”



- Sheldon has different structure than other Franklin Northwest SU districts and so cannot be merged.
- The districts have not found evidence that merging will improve test scores.

For more details, see the districts' Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

## Secretary's Discussion and Proposal

Under Act 46, a UUSD that is large enough to be its own SD is the "preferred structure" for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership." Nevertheless, the Legislature limits the State Board's authority to include SUs with multiple member districts in the statewide plan by declaring that the "State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

"(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

"(2) ensures transparency and accountability for the member districts and the public at large ..."

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The Section 9 Proposal asserts that the Franklin Elementary School District has high test scores and low taxes and that merger will increase the cost per pupil and tax rates in Franklin without improving student performance. Even assuming the accuracy of the assertion, the Legislature requires the State Board to have a regional focus as it merges districts where necessary to create sustainable structures. In addition, the Franklin District, which is far smaller than the Highgate and Swanton Districts, has been experiencing a steady, significant decline in its student population to a degree not faced elsewhere in the SU. Experience throughout the State demonstrates that decreasing student population in a small district is not sustainable and ultimately leads to a downward spiral of increasing tax rates, reduced programming, and frequent staff turnover (which the Section 9 Proposal states is already an issue). Larger governance structures have been shown to provide the flexibility needed to mitigate annual budget and tax increases, moderate tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded. Experience of unified districts also suggests that the best way to ensure the continued operation of the Highgate and Swanton elementary schools may be to form a UUSD that can deploy resources efficiently in support of the schools. Furthermore, a contention that unification will raise tax rates for one or more

groups of taxpayers cannot be the sole reason to prevent merger, particularly where there is no evidence that the calculation resulting in the projected increase accounted for the potential savings that can be realized by the creative and efficient use of the unified district's resources and flexibility.

The Section 9 Proposal states that the residents of all districts "made it clear" in the November 2017 vote that they want to maintain local control and that "town identity was critical to them." Merger is not "impossible" or "impracticable" because of community opposition, however. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger "impossible" or "impracticable," although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board's existence, that means the State Board must focus on what is best for the education of the State's children.

Inherent in the desire to maintain "local control" and "identity" is the premise that maintaining decision-making at the local board level and approving district budgets at Town Meeting are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget, which often is amended and voted on "from the floor," to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature's presumption that the "preferred structure" with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

Some variation of the transition from local to more centralized decision-making has occurred in each of the new UUSDs created under the voluntary merger programs enacted by the Legislature. In most of those unified districts, the articles of agreement require formation of community-based entities that advise and otherwise serve as a bridge between the local community and the unified board. In addition, it is important to note that, other than the initial vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions "from the floor."

The Section 9 Proposal suggests that the elementary districts can increase programmatic offerings and create a more stable workforce of full-time staff by sharing teachers and other professionals who would be hired by the SU. In such an arrangement, the respective cost of



each SU-level employee would be allocated to the districts in which the employee works. The local board would thus have a diminished personnel-related role in relation to the SU's employee and the voters would have no ability to control or reject the costs the SU allocates to the local budget – which could negatively affect their ability to fully fund the programs in their own elementary school.

Alternatively, interested districts could hire the same individual for a fractional position, all of which would total 1.0 FTE. Small districts have employed this approach throughout the State for many years. Although it is at times a successful strategy, more often districts report either that highly valued employees leave for a single full-time position with full benefits in a larger, often unified, district or that the candidates interested in cobbling together employment through a series of part-time contracts are less well qualified. While this approach may be all that is available in some regions of the state – especially where districts cannot merge unless the voters agree to change the current operating/tuitioning structures – it is an inherently unstable one.

The Section 9 Proposal cites Sheldon's different operating and tuitioning structure as a barrier to merger. This statement is correct only as it relates to merger of all five districts within the SU. There is no such barrier, however, to the merger of the Franklin, Highgate, Swanton, and Missisquoi Union High School Districts.

The Franklin Northwest SU districts approached the Act 46-required self-analysis in an earnest manner and, for example, identified disparities in assessment results and "gaps" in middle school programming. They report that they are examining ways in which their methods can improve and are developing action plans.

Many of the more specific action items listed in the Section 9 Proposal (creation of an Instructional Resource Team, site-based school improvement teams, and an SU-level school improvement team) are approaches that have been employed for many years in other districts or are elements of unified union school districts. In addition, the Section 9 Proposal's specified action items primarily are to "continue doing" or "build upon" what the districts already do, are offered as items to be studied with no particular plan of action offered at this time, or are services that an SU is already statutorily required to provide on behalf of member districts (*e.g.*, special education services). While these approaches may well yield improvements, they do not result in an "Enhanced Alternative Governance Structure," but rather are standard elements of sound SU and district operation.

Even the Franklin Northwest districts' proposal to explore limited multi-district elementary school choice is not the "best" approach for the region. Although it is a reasonable option for districts where merger is not possible or practicable, a program of limited multi-district choice is not as effective as the broader and more accessible ability to support elementary school choice in a unified district. In addition, the strategy to share ADM 50/50 between the sending and receiving districts cannot occur unless the Legislature is willing to amend current law.

The Section 9 Proposal's plan to "investigate a foreign student/out of state student team to research and develop a system designed to attract foreign and out of state students to enroll at" the union high school might be an interesting option to explore. Even if pursued and

implemented, however, it provides no assurance of sustainability for student numbers or funding sources.

The juxtaposition of the Section 9 Proposal's focus on identifying one district's test scores as favorable and unlikely to improve with merger with the acknowledgement that there are disparities in assessment results and "gaps" in middle school programming exposes a parochial approach to regional analysis. As is often the case in Vermont's very small districts, the Section 9 Proposal's self-analysis and conclusions underscore the reality that comparison of test scores is generally not helpful because in most instances the class sizes are too small to permit disaggregation by poverty, special needs, gender, or any other factor. In addition, in many instances it is not possible to report data at the school or grade level in way that does not disclose how a particular cohort of students performs on standardized tests. As such, there is no basis to conclude that merger will not lead to better results when the Legislature determined that a unified district is the structure most likely to meet the Act 46 goals, including the 2<sup>nd</sup> Goal: to "lead students to achieve or exceed the State's Education Quality Standards."

No facts have been presented to support a conclusion that merger is not "possible" or "practicable" in this instance, nor can the Agency identify any other facts that would do so. In addition, the unified district would be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a "preferred structure."

The Franklin Northwest districts' argument that the proposed "Enhanced Alternative Governance Structure" is the "best" means of creating a sustainable structure capable of meeting the Act 46 Goals is not convincing enough to overturn the Legislature's presumption that a UUSD is the "preferred" means of doing so.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature's determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary trusts that the communities' concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to merge the governance structures of the Missisquoi Valley Union High School District, the Franklin School District, the Highgate School District, and the Swanton School District into a single unified union school district that provides for the education of its PreK-12 students by operating multiple schools.*

The Secretary makes this recommendation because the Legislature has determined that a larger governance structure, with its inherent flexibility and opportunities, is the best means of meeting the Act 46 goals, which is the loadstone for this document. However, this recommendation is made with the full awareness that without the commitment of the communities to create a new definition of "us," potential opportunities will not be realized and unification may be blamed for any encountered difficulties.

### **3. The Oxbow Union High School District and its Two Member Elementary Districts (Bradford; Newbury)**

The Orange East SU includes the Oxbow Union High School District and its two member districts: the Bradford Incorporated District and the Newbury School District, both of which operate an elementary school. The SU also includes the Waits River Valley USD and the Thetford School District.

At its May 2018 meeting the State Board redrew the SU's boundaries pursuant to 16 V.S.A. § 261 to include the Blue Mountain USD. The Section 9 Proposals were submitted and the Conversations occurred prior to this boundary adjustment.

The K–12 ADM of all districts in the SU for FY 2018 are as follows:

Orange East SU (with Blue Mountain) – 1,737.5 (1,343.5 without Thetford)  
Newbury (K-6) – 137  
Bradford ID (K-6) – 221  
Oxbow Union High (7-12) – 273.83  
[total: 631.83]

Blue Mountain Union (three towns; K-12 o) – 380.25  
Thetford (K-6 o / 7-12 designating – 394  
Waits River Valley Union – 332.42

Data reflect that the ADM of both the Bradford and Newbury Districts have fluctuated during the last five years, although the trend has generally been a slight increase. The Oxbow Union High School District has similarly seen fluctuating numbers, but has decreased by approximately 38 students, or 12%, over the last five years.

#### **Districts' Sec. 9 Analysis and Proposal**

The Bradford and Newbury Districts entered into a § 706 Study Committee with the Blue Mountain Union School District, which at the time was its own single-district SU to the north. The study committee did not propose creation of a unified district and so the boards did not present such a proposal to the State Board or their electorate.

Although the Bradford, Newbury, and Oxbow Union Districts acknowledge the educational and financial weaknesses of the districts, the absence of a positive working relationship among the schools boards and the SU board, and the potential benefits of increased collaboration and even of merger, the three districts did not submit a joint Section 9 Proposal. Rather, the Newbury School District submitted one proposal and the Bradford and Oxbow Union Districts submitted a separate and different one. Both proposals are set out separately below.

For more details, see the districts' Snapshots at Appendix F; common data points at Appendix G; and links to the Section 9 Proposals at the [School Governance / Sec. 9 Proposals webpage](#).

*See also* the discussion of the Blue Mountain USD, which is #21 in Part VI(C)(a).

## **The Newbury School District**

The Newbury District currently exchanges elementary students with the Blue Mountain Union School District on a one-to-one basis. The Section 9 Proposal acknowledges that assessment results for Newbury Elementary students “are below state norms.” Although the Board “does not view test scores as the most effective metric for measuring student learning,” it does use the results to inform its decisions. As a result, the district’s “Continuous Improvement Plan offers specific actions that will be undertaken to address areas where the test scores indicate performance gaps,” such as using an instructional coach for PBL [proficiency-based learning] design, including interventionists and special educators during PBL design meetings, and monitoring student data for growth.

When discussing the Oxbow Union School District, the Newbury Board notes that the middle/high school is “sufficiently large enough to provide the array of opportunities required to meet the EQA standards.” Nevertheless, the Newbury Board is “especially intrigued by the possibilities” of Blue Mountain District’s membership in the Orange East SU. “By coordinating the programs offered at the Middle and High School levels at the SU level, it would be possible to facilitate the sharing of staff between the two schools and to create magnet programs at each of the schools.” In addition, through such an expansion of the SU, “it may be possible to provide shared staffing and/or enhanced special education programs among [the Bradford, Newbury, and Blue Mountain] elementary schools”

The Newbury Board notes that the elementary district’s “overall cost-per-equalized student is not out of line with other comparable districts in Vermont” and that its student-to-teacher ratios are above State averages.

A survey of residents provided the Newbury Board with “clear evidence that the communities not only value the schools, they value the local, fundamental democratic structures: the town meeting and the elected town school boards.”

During its March 19 Conversation, the Board observed that there are possible benefits in governance merger, but that positive, productive relationships among the schools districts do not exist. The Board members believe that the districts and their school boards should first work on building trust and then make governance changes.

After “examining the potentially adverse consequences of a forced merger and the potential benefits of improved collaboration at the SU level, the current OESU districts are likely to be more open to working collaboratively to achieve economies of scale and more willing to exploring programs the SU can offer more effectively and efficiently” as distinct, independent districts.

In addition, the “Newbury School Board is reluctant to proceed with any merger discussions until the status of Thetford, Waits River, and Blue Mountain is clear. If any one of these districts is not incorporated in a SU with Newbury, the Newbury School does not believe a preferred governance structure is feasible.”

Accordingly, the Newbury School Board’s Section 9 Proposal, submitted prior to the State Board’s May 2018 SU boundary adjustment, proposes that all five districts within the Orange

East SU retain their current governance structures and that the Blue Mountain District be added as a sixth member district.

### ***The Bradford Incorporated District and the Oxbow Union High School Districts***

While acknowledging many of the same struggles as the Newbury School Board, the joint Section 9 Proposal of the Bradford and Oxbow Union Boards reaches a different conclusion.

The Bradford and Oxbow Union Boards state that the Orange East districts “are not yet fully compliant with the mandates of” 16 VSA § 261a (special education and transportation services, etc.). Not only do the districts lack a history of working together, there are “long-term, systemic challenges within the OESU governance structure.”

The Boards conclude that “there is a functional and cultural need for change if our schools are to provide effective 21st Century learning experiences.” The Section 9 Proposal avers:

It will be impossible, based on past and current practice, to improve learning opportunities for students until a governance structure places everyone at the table and a common vision is the first order of business.”

At their March 23 Conversation, the Board Chairs stated that even if there are split votes on a UUSD board, the board and the unified district itself would be going in a single direction.

As a result, this Section 9 Proposal suggests that the State Board merge the Bradford, Newbury, Oxbow Union, and Blue Mountain Union Districts – and possibly the Rivendell Interstate District – into a single unified district. The districts’ written proposal envisions that the Orange East SU would have three member districts: the newly unified district (above), the Waits River USD, and the Thetford School District. At the March Conversation, the Chairs suggested that perhaps the newly unified district could be its own single-district SU by moving the Waits River USD into the new Central VT SU and Thetford into the White River SU.

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and



“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, the Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The Newbury Board’s Section 9 Proposal states that its voters have provided it with “clear evidence that the communities not only value the schools, they value the local, fundamental democratic structures: the town meeting and the elected town school boards.” Merger is not “impossible” or “impracticable” because of community opposition, however. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

Inherent in the desire to maintain “local control” and “identity” is the premise that maintaining decision-making at the local board level and approving district budgets at Town Meeting are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget, which often is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that the “preferred structure” with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

Some variation of the transition from local to more centralized decision-making has occurred in each of the new UUSDs created under the voluntary merger programs enacted by the Legislature. In most of those unified districts, the articles of agreement require formation of community-based entities that advise and otherwise serve as a bridge between the local community and the unified board. In addition, it is important to note that, other than the initial vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions “from the floor.”

There is no structural barrier to the merger of the Bradford, Newbury, and Oxbow Union School Districts. In addition, both proposals acknowledge the weaknesses of the current districts, the lack of collaboration among the districts and the boards, and the potential benefits of merger. The primary difference between the proposals is timing.

The Newbury District's comment is well-taken: both collaboration among independent districts and merger of governance structures have the best chance of being successful if the parties first develop a relationship of trust and respect. It is important to note, however, that the districts' long-standing enmity has precluded the Orange East SU from fully complying with legislative mandates of 16 VSA § 261a. There is nothing in their history suggesting that the districts, if independent, would now begin to build a positive, collaborative relationship that would allow them, collectively, to meet and exceed the educational and fiscal goals of Act 46 in a sustainable manner. We can have no confidence that, without a structural change, the districts will develop the positive relationship that would lead, eventually, to a merged governance system.

There is more merit to the argument in the Bradford and Oxbow Union Districts' joint proposal that it "will be impossible, based on past and current practice, to improve learning opportunities for students until a governance structure places everyone at the table and a common vision is the first order of business" and that "there is a functional and cultural need for change if our schools are to provide effective 21st Century learning experiences." In essence, collaboration will only be possible if the old structures and relationships are ended and replaced with a single entity that pursues a single – although not always unanimous – vision.

As stated above, the circumstances of Blue Mountain Union School District are relevant to this discussion. Under 16 V.S.A § 261, the State Board may review and regroup the supervisory unions of the state in such a manner as to "afford increased efficiency or greater convenience and economy and facilitate prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require." This authority preexisted Act 46 and may be exercised independently of the authority and responsibility given to the State Board by Act 46. Pursuant to this authority, at its May 16, 2018 meeting, the State Board approved reassignment of the Blue Mountain Union District to the Orange East Supervisory Union, as requested by Blue Mountain. The request had been motivated by the fact that Blue Mountain otherwise would have been without any supervisory union services as of July 1, 2018 due to the departure of its superintendent and business manager.

This reassignment does not dictate a decision under Act 46, but it is significant that the addition of Blue Mountain would bring the ADM of Orange East to 1,012.08. The Newbury District's argument – that the "current OESU districts are likely to be more open to working collaboratively to achieve economies of scale and more willing to explore programs the SU can offer more effectively and efficiently" if they remain distinct, independent districts and that retaining the current district structure is the "best" means of creating a sustainable structure capable of meeting the Act 46 Goals – is not convincing enough to overturn the Legislature's presumption that a UUSD is the "preferred" means of doing so.

No facts have been presented that support a conclusion that merger is not "possible" or "practicable" in this instance, nor can the Agency identify any other facts that would do so.



Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary trusts that the communities’ concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to merge the governance structures of the Oxbow Union High School District, the Bradford Incorporated District, and the Newbury School District into a single unified union school district that provides for the education of its PreK-12 students by operating multiple schools.*

The Secretary makes this recommendation because the Legislature has determined that a larger governance structure, with its inherent flexibility and opportunities, is the best means of meeting the Act 46 goals, which is the loadstone for this document. However, this recommendation is made with the full awareness that without the commitment of the communities to create a new definition of “us,” potential opportunities will not be realized and unification may be blamed for any encountered difficulties.

*See also* the discussion of the Blue Mountain Union School District at #21 of Part VI(C)(a) below for the Secretary’s consideration of whether the State Board should also require the Bradford, Newbury, and Oxbow Union Districts to merge with the Blue Mountain Union School District.

#### **4. The Spaulding Union High School District and its Two Member Elementary Districts (Barre City; Barre Town)**

Although the deadlines have expired for most of the “voluntary mergers” contemplated by Act 46 and the earlier laws it incorporates, it is still possible for districts to explore governance unification during the period leading to the State Board’s issuance of the final statewide plan. For example, districts can consider creating:

- A unified union school district created pursuant to 16 V.S.A. chapter 11 that is eligible for tax rate reductions and other transitional assistance pursuant to Act 46, Sec. 7 (Phase 3 merger activity)
- A unified union school district created pursuant to 16 V.S.A. chapter 11 that is not eligible for tax rate reductions or other transitional assistance.
- An interstate school district created pursuant to state and federal law.

The Barre City and Barre Town School Districts are organized to provide for the PreK-8 education of resident students and are members of the Spaulding Union High School District for grades 9-12. Each of the three districts operates a school. The combined K-12 ADM of the three districts, the sole members of the Barre SU, is 2,130 in FY 2018.

A study committee of the Barre SU districts developed a unification proposal approved by the State Board of Education on October 18, 2016. On November 8, 2016, the voters of the Barre Town School District voted not to approve the proposal and the voters of the Barre City School District voted to approve it. Because the proposal identified both districts as “necessary,” the districts did not merge into a new unified union school district and the study committee dissolved.

The districts of the Barre SU complied with the requirements of Act 46, Sec. 9 by submitting a letter dated December 15, 2017 and signed by the chairs of the two elementary districts and the union high school district. The letter identified the districts’ intention to explore unification under Act 46, Sec. 7 (Phase 3), stating in part:

In an attempt to meet the goals of Act 46, [the districts] will form a new study committee ... with the intent of ... determining the advisability of merging to form an operational Supervisory District from the [districts of the] current Barre Supervisory Union by July 1, 2019. Barre Town formally voted to enter into a new § 706 study on October 4, 2017 and Barre City on November 13, 2017.<sup>38</sup>

The letter indicated that the boards had “addressed the requirements of Section 9” in the original merger proposal and that the boards “plan to revisit the analysis and articles of agreement in the new study.”

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<sup>38</sup> Under 16 V.S.A. § 706, the boards of districts vote whether to create a study committee and appoint representatives to that committee, which can be a combination of board members and non-board members. The member town districts of a union elementary or union high school district are presumed to represent the interests of the union district.

Although the study committee has not yet identified specific dates, the December 15 letter indicates that the committee intends to present a new proposal and articles to the State Board “in August, 2018 or earlier” and to the voters “by September, 2018 or earlier.”

The Barre SU districts declined to schedule a Conversation under Act 46, Sec. 10.

For more details, see the districts’ Snapshot at Appendix F; common data points at Appendix G; and the first Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary’s Discussion and Proposal**

The timing of the currently-available voluntary merger options complicates the ability of the Secretary to issue the proposed plan by June 1, 2018 and – more significantly – the State Board to issue its final statewide plan by November 30, 2018. Nevertheless, the Legislature clearly contemplated that districts would continue to have the opportunity to pursue governance consolidation during the period in which the statewide plan is being developed (*e.g.*, the Legislature enacted both the Sec. 7 merger possibilities and the Sec. 10 statewide plan deadline in the same piece of legislation), and that new unified union school districts created during this period would be eligible for tax rate reductions and other transitional assistance if they met certain criteria.

The fact that both communities voted to establish a new § 706 Study Committee represents a genuine effort toward reaching a compromise and there appears to be a strong possibility that the districts will unify.

The Secretary’s ability to comment is limited because it is impossible to predict whether the study committee will develop a final proposal and, if so, whether the voters of both “necessary” districts will approve unification. By the time the State Board is required to issue its final statewide plan, the Board will have the information it needs to make its decisions.

*Accordingly, in light of this development and out of respect for the Legislature’s decision to provide the districts with this opportunity to merge voluntarily and obtain tax rate reductions, the Secretary makes no recommendation regarding the governance structure of the Barre City, Barre Town, and Spaulding Union Districts at this time so that the Agency does not insert itself into community discussions and potential votes of the electorate. The Secretary anticipates that the State Board will review and may potentially address the governance structure of these districts in its final statewide plan.*

## **5. The Union 32 High School District and its Five Member Elementary Districts (Berlin; Calais; East Montpelier; Middlesex; Worcester)**

The Washington Central SU consists of the Berlin, Calais, East Montpelier, Middlesex, and Worcester School Districts, each of which operates an elementary school and is a member of the Union 32 High School District for grades 7-12.

The K–12 ADM in FY 2018 is as follows:

Washington Central SU – 1,350.21  
Berlin (K-6) – 182.55  
Calais (K-6) – 108.90  
East Montpelier (K-6) – 189.00  
Middlesex (K-6) – 142.60  
Worcester (K-6) – 63.10  
U-32 (7-12) – 664.06

The FY 2018 ADM for other districts and groups of districts in the region that similarly operate K-12, are:

Barre SU – 2,130.07  
Cabot – 150.43  
Montpelier-Roxbury USD – 1,099.42  
Twinfield Union – 306.74

Data reflect fluctuations and a general decline in ADM throughout the Washington Central SU of an average of approximately 4% from FY 2014 through FY 2018:

- The Berlin Elementary District has fluctuated dramatically during the last five years, with an 11% decline (20 fewer students) between FY 2014 and FY 2015; a 13% increase (22 more students) between FY 2016 and FY 2017; and a 5% decline (10 fewer students) between FY 2017 and FY 2018.
- The Calais Elementary District has had smaller fluctuations over the last five years, with its lowest ADM currently in FY 2018 (ADM starting at 112 students in FY 2012, followed by: 116.0; 111.35; 112.0; and 108.9)
- The East Montpelier Elementary District has also had fluctuations, and although the district's ADM has increased during the last three years (after dropping 13% between FY 2014 (197) and FY 2015 (171.45)), the FY 2018 ADM (189) is 4% lower than it was at its highest point in FY 2014
- The Middlesex Elementary District rose nearly 5% from FY 2014 (154.65) to its highest point in FY 2016 (162.2) and then declined 12% in the intervening years to a five-year low in FY 2018 (142.6)
- The Worcester Elementary District also had its largest ADM in FY 2016 (70), and although its FY 2014 and FY 2018 numbers are nearly identical to each other (62.8 and 63.1), it is the only elementary district that does not have a smaller ADM in FY 2018 than in FY 2014
- The Union 32 Middle/High School District reflects the fluctuations these small districts face, rising 1% between FY 2014 (692.6) and FY 2015 (701.4) and then declining steadily

(by 18 students, then 15, then 8.4) to a low in FY 2018 (660), a decline of approximately 6% over the last three years

## **Districts' Sec. 9 Analysis and Proposal**

The districts of the Washington Central SU jointly submitted a Section 9 Proposal recommending that the State Board authorize the districts to maintain their current structures within the same SU.

In reaching this recommendation, the districts participated in a § 706 study committee, assisted initially by a consultant and then by a two-person facilitation team. In addition to self-analysis and discussion by each district's board, the districts held community forums in each town, arranged for an "independent, third-party researcher" to conduct a "robust" survey of the voters in all districts, and engaged in "many other activities."

The § 706 study committee, which at its inception voted to take action only by supermajority (9 of 11 members) rather than by a simple majority, declined to endorse unification and so did not submit a merger proposal to the State Board or to the districts' voters.

The boards report that the analysis and conversations engendered by Act 46 have dissolved barriers and changed the dynamic among the districts, which their representatives describe as having been "siloe" before the discussions. The Section 9 Proposal states that "all the boards of WCSU are unified, coordinated, systematic, and intentionally explicit in their stated commitment to proficiency-based learning and to achieving equity in the quality and variety of educational offerings" For example, the Proposal reports that over the last three years the districts have developed and adopted: a unified mission statement; a "comprehensive set of system-wide Student Learning Outcomes" that "set clear expectations and define explicit measurable targets" for academic and transferrable skills; a "Theory of Action;" and a five-year implementation plan (of which they are in year one). The districts also made a "system-wide shift to proficiency-based learning" beginning in the 2016-17 academic year, which is required to be implemented statewide for the 2020 graduating class.

The Section 9 Proposal states that all elementary schools offer prekindergarten, after-school, and summer programs on a sliding scale cost basis. It also observes that student "counts and cost drivers can be factors in determining the extent of such services or the manner in which they are offered" in the individual elementary schools. In addition, "all schools ... offer in-school and extracurricular activities" and "[e]very effort is made to ensure that cost, fees, or transportation do not present barriers."

"For the sake of brevity, [the Section 9 narrative addressed] the current state of WCSU student learning outcomes by focusing on Literacy and Math, measured only by SBAC scores." SU-wide, students have "consistently" scored above the State average in literacy during the last two years and below the State average in Math (except for 7<sup>th</sup> grade). The districts acknowledge:

Combined 3-year scale scores show measurable differences in performance in each grade level between students who participate in the FRL program and those who do not. On average, students in the former group perform approximately two grade levels below those in the latter group, although the gap varies from grade to grade...

[In addition, the combined] 3-year scale scores show performance from preK-6 school to preK-6 school across the WCSU varies by approximately two grade levels ... The data do not examine possible reasons or causes for the variance.

In more general terms, the Proposal states that there are “significant gaps based on socio-economic status” at all grade levels. It speculates that there may be a “mismatch” between SBAC and local literacy assessments and that the SBAC and local math assessments may “also not [be] in alignment.” The Proposal states that the districts “need to investigate the criterion scores [used] to identify which students are in need of additional assistance” and provide more professional development for teachers to “align their scoring practices to adopted performance indicators.” The Proposal states that the achievement gaps are closing “in some schools and grade levels,” providing the East Montpelier School District as an example of where this is occurring.

The districts point to examples where they “have moved toward fully coordinated and shared resources,” although they acknowledge that they may need to overcome “structural inertia” to implement systems across schools. The districts also observe that during the last 2-5 years, the SU has “demonstrated that it is capable of achieving ever greater levels of commitment and implementation of equity-driven models and systems,” citing PLPs, PBL, multi-tiered supports, and “resource coordination” as examples. In addition, the

WCSU boards are interested in exploring the creation of a central equity fund to share the burden of providing for our most disadvantaged students no matter what school they attend. This fund could in theory also provide for indemnifying our most disadvantaged town against loss of state support (*e.g.*, its small school grant).

The districts are somewhat unusual in that the SU Executive Committee commissioned an outside consultant to perform a two-part efficiency study, issuing reports in December 2014 and March 2015. The first, more comprehensive report, yielded 55 recommendations organized into three overarching themes: Governance and Board Structure; Operations; and Structural Opportunities. Although the boards adopted fewer than half of the recommendations and none relating to structure, they adopted recommendations that apply to the SU board, “including limitation of the executive committee to an agenda-setting role, plus a more frequent use of ‘carousel meetings’ to promote SU-wide integration.” District boards have also adopted some of the district-specific recommendations such as adopting “more policies in common,” making each board’s presence on the SU website consistent, and clarifying accountability chains. In addition, the districts have begun to use a combined budget chart, which “allows our boards to benchmark their financial performance against each other.”

Budgetary constraints limited the scope of the second efficiency study, which (1) looked at the possibility of combining school populations through joint-contracts (Doty-Rumney and Calais-East Montpelier); and (2) conducted a “limited financial review” of a unified union district where “the structure, grade configuration, and the budgeted revenues and expenditures for the schools in Washington Central remained the same and only the supervisory union assessments were taken out” (Efficiency Study II, p. 1) Regarding this second efficiency study, the districts’



Section 9 Proposal states that “modeling constraints [prevented] projecting any efficiencies” but that the cost savings of reconfiguring grades and combining schools were very small.<sup>39</sup>

The Section 9 Proposal concludes that “for the time being” the current structure is the best for each district. It explains that the local communities are concerned about school closure in a consolidated governance structure and that the study committee found “no *surefire* way to afford smaller communities a way to protect their schools and their voice in school closure decisions under a consolidated structure” (emphasis in original).

The rationale for retaining the same structure on which both the written proposal and the Conversation focused, however, is that the elementary districts currently have “[g]reatly differing levels of indebtedness.” The Section 9 Proposal asserts that these differences would cause taxes to rise in Calais and Worcester, the communities that are

least able to afford such increases. As a result, consolidation would perversely increase inequities in school finance among our five towns, not decrease them. ... and does not appear to offer any promise of greater equity in educational opportunities.

The “WCSU boards are open to exploring collaboration with districts outside our SU” including “sharing an administrative umbrella.”

The Board representatives present at the Conversation summarized their proposal by stating that merger of the six districts into a single, unified district is:

- *Impossible* – because the differing debt levels would make merger inequitable and the two least affluent communities will experience tax increases
- *Impractical* – because of community opposition to a single board and budget structure
- *Unnecessary* – because the districts can “define a clear trajectory of improvements” under current structure and have identified “plans and steps” to achieve the improvements, concluding that governance change is not necessary, especially given the “impossible” and impractical” reasons above

For more details, see the districts’ Snapshot at Appendix F; common data points at Appendix G and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union

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<sup>39</sup> Of the recommendations in the Special Education Task Force Report authored by A. Angney and others in 2011 and referenced by the Efficiency Studies, the representatives present at the Conversation reported that the districts have adopted only those recommendations required by statute.



with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The districts state that merger is “impossible” because differing debt levels would make merger inequitable for the two least affluent communities, Worcester and Calais, both of which would experience tax increases under the districts’ modelling. Basing a decision on debt levels is short-sighted, and – given the Legislature’s identification of a UUSD as the best means to sustainably achieve the Act 46 goals, including financial ones – should not be the sole or primary reason to prevent merger where it is otherwise the best alternative. Although assumption of a portion of one district’s capital debt may result in tax increases, the districts’ modeling does not take into account any savings that could result from approaching the possibilities of merger in a creative manner. In addition, today’s district with little or no debt will tomorrow become the district that needs a new roof. In other words, long-term decision making should not be based on point-in-time circumstances. Finally, capital debt does not last forever, it is eventually paid off. Districts need to take the long view when determining what will best serve their students, particularly in small districts with steadily declining populations, increasing budgets, or unstable tax rates.

Even assuming the accuracy of the assertion, the Legislature requires the State Board to have a regional focus as it merges districts where necessary to create sustainable structures. Calais and Worcester, the two districts identified in the Section 9 Proposal, are the smallest of the five small elementary districts. All five have experienced declines and/or fluctuations in their ADM since FY2014. Experience throughout the State demonstrates that decreasing student population in a small district is not sustainable and ultimately leads to a downward spiral of increasing tax rates, reduced programming, and frequent staff turnover due to. Larger governance structures have been shown to provide the flexibility needed to mitigate annual budget and tax increases, moderate tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded. Furthermore, a contention that unification will raise tax rates for one or more groups of taxpayers – based on assumption of capital debt or for other causes – cannot be the sole reason to prevent merger, particularly where there is no evidence that the calculation resulting in the projected increase accounted for the potential savings that can be realized by the creative and efficient use of the unified district’s resources and flexibility.

It seems possible the concern underlying discussion of capital debt is not so much about equity as it is that the study committee found “no surefire way to afford smaller communities a way to

protect their schools and their voice in school closure decisions under a consolidated structure.”<sup>40</sup> The Middlesex and East Montpelier Districts have renovated their facilities in recent years and the nearby Worcester and Calais Districts, the two districts identified as disadvantaged by assuming a portion of existing capital debt, have not. The efficiency studies commissioned by the SU Executive Board noted that, even in FY 2014 and FY2015 when ADM numbers were higher than they are today, all four schools had excess capacity. Those studies considered the possibility of moving all sixth grade students to U32 to create a 6-8 middle school, consolidating PreK-5 students from these towns, and closing buildings. It is not unreasonable to assume that if the voters of a merged district chose to consolidate building use in this way, then students might be moved to the two buildings with recent renovations.

Underlying the concern that the Study Committee found no “surefire way” to ensure that smaller communities could “protect ... their voice” is the fear that a smaller district’s proportionally smaller representation on a unified board will lead to, *e.g.*, reduced programmatic offerings in favor of lowering tax rates or at urging of communities perceived as less willing to support budgetary increases at the polls; increased taxes by voters in other towns that can more easily support tax increases; failure to perform needed or desired structural improvements to school buildings in smaller towns; and the ultimate closure of smaller, more rural elementary schools. Even assuming that the members of a unified board are incapable of learning to view all of the district’s students as “our” students rather than as students of “either my town or some other town,” this concern has less merit if the merging districts allocate members of an equal or more similar number to each town under the Hybrid Model of board representation.<sup>41</sup>

The Washington Central districts next contend that merger is “impractical” because of community opposition to merger as expressed in responses to a “robust” survey. Merger is not “impossible” or “impracticable” solely or primarily because of community opposition. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and

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<sup>40</sup> Emphasis in the original.

<sup>41</sup> Although it does not play a part in the Secretary’s conclusions, it is interesting to note that if the districts had merged voluntarily under one of the legislatively-created programs, then Worcester’s small school grant funds would have continued in perpetuity, unless the school building was closed, which might have provided the building some protection from closure. Additionally, if Worcester is ineligible to receive the small school grants under the State Board’s newly developed geographical isolation or excellence criteria, then the additional tax burden that the Section 9 proposal estimates Worcester would assume due to East Montpelier’s capital debt is 55% of the amount of funds it will lose in small school grants (an estimated \$46,400 in taxes versus \$85,100 in small schools grant). That is prior to accounting for the increased tax credits (income sensitivity) that would arise due to a higher tax rate, lowering the additional taxes raised. Calais is different in that its estimated tax increase in the Section 9 Proposal is 2.3 times greater than its small schools grant – \$97,100 versus \$41,700, again, prior to accounting for increased tax credits due to a higher tax rate.

the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

Furthermore, the § 706 study committee voted at its inception to take action only by supermajority (9 of 11) rather than by a simple majority as all other districts have done since the statutes were enacted in the 1960s. A supermajority of the study committee did not endorse unification. As a result, the school boards did not prepare or submit a merger proposal and draft articles of agreement to the State Board or to the districts' voters. The study committee constructed an unusually high bar for consideration of unification. Unification was never put to a vote and a survey response does not carry the same weight as a vote on a merger report and proposed articles agreement. Even if the survey itself is considered, it indicates a not insignificant level of support for unification, thus raising more questions than it answers<sup>42</sup>.

It is worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board's existence, that means the State Board must focus on what is best for the education of the State's children.

Inherent in the desire to maintain "local control" and "identity" is the premise that maintaining decision-making at the local board level and approving district budgets at Town Meeting are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget, which often is amended and voted on "from the floor," to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature's presumption that the "preferred structure" with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

Some variation of the transition from local to more centralized decision-making has occurred in each of the new UUSDs created under the voluntary merger programs enacted by the Legislature. In most of those unified districts, the articles of agreement require formation of community-based entities that advise and otherwise serve as a bridge between the local community and the unified board. In addition, it is important to note that, other than the initial

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<sup>42</sup> Responses to survey question asking about the level of support for "resources shared across regional district" are Berlin: 52.3% support; Calais: 42.9% support; East Montpelier: 63.3% support; Middlesex: 47.5% support; Worcester: 58.5% support.

Quotes from the open-ended portion of the survey:

"I think it is needed for efficiency too many meetings and too many redundancies – they need to share services and coordinate better to cut down on costs, but still remain concerned that local voices will be harder to hear with only one board."

"The current governance structure is outdated and top heavy."

"All students graduate from U32. They are ALL our kids. What happens at Berlin Elementary School and every other elementary school in Washington Central should matter to Middlesex residents since they all go to the same middle/high school."

vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions “from the floor.”

Finally, the Washington Central districts assert that merger is “unnecessary” because the districts can “define a clear trajectory of improvements” under current structure and have identified “plans and steps” toward reaching their goals. The Section 9 Proposal discusses student achievement at the SU-level, including gaps between those children who are eligible for the federal Free and Reduced-Price Lunch program and those who are not. While stating that there is a great difference between these subgroups within and between each elementary school, the Proposal does not disaggregate the scores or other indicators of achievement. These conclusions fail to provide insight into where gaps exist in equity among the schools or within any one school and specifically how each district intends to address it, either alone or in collaboration with others, although there is a statement that at least one district is experiencing success in closing the gap.

In addition, although all of the elementary districts offer prekindergarten, afterschool, and summer programs, the Section 9 Proposal acknowledges that student “counts and cost drivers can be factors in determining the extent of such services or the manner in which they are offered” in the individual elementary schools, which implies that the districts are accepting the inequities as inevitable. Similarly, the proposal does not indicate in what way they are different or in which schools. This dynamic will only be exacerbated in small districts, as student counts continue to decline and tax rates increase.

The Proposal’s suggestion that the “boards are interested in exploring the creation of a central equity fund to share the burden of providing for our most disadvantaged students no matter what school they attend” provides little reassurance that the districts will actually address inequities in a sustainable manner. Given the trending decline in ADM in each of the districts, it is worth questioning whether the districts will be individually able to continue whatever programs each currently offers its own resident students, much less demonstrate a willingness to pay into a centralized equity fund. Furthermore, the structure assumes that voters in each independent district will voluntarily agree to raise their own taxes to support a fund that will ensure equity in other districts – but that those same voters would not be willing to agree to support increased taxes to support a unified budget working to support equitable opportunities for the students of the entire region.

The lack of equity within and among the Washington Central elementary districts is troubling, especially in light of the districts’ historic reluctance to operate in a unified manner even when required to do so by law. Several years ago, the districts commissioned independent efficiency studies. Although the studies explored and recommended many changes, including structural ones, the districts report that they have implemented only a few relatively minor ones, such as a move to carousel meetings, adopting more policies in common, and others that have little effect on educational opportunities or equity or on student outcomes.

The Washington Central districts’ Section 9 Proposal and their Conversation do not support the contention that merger of the six districts is in any way impossible, impractical, or unnecessary, nor can the Agency identify any other facts that would do so.

Furthermore, the Washington Central districts' argument that "for the time being" retaining the current governance structures is the "best" means of creating a sustainable structure capable of meeting the Act 46 Goals is not convincing enough to overturn the Legislature's presumption that a UUSD is the "preferred" means of doing so.

Not only is merger of the U-32 District and its member elementary districts both "possible" and "practicable," but the unified district would also be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a "preferred structure."

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature's determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary trusts that the communities' concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to merge the governance structures of the Union 32 High School District, the Berlin School District, the Calais School District, the East Montpelier School District, the Middlesex School District, and the Worcester School District into a single unified union school district that provides for the education of its PreK-12 students by operating multiple schools.*

The Secretary makes this recommendation because the Legislature has determined that a larger governance structure, with its inherent flexibility and opportunities, is the best means of meeting the Act 46 goals, which is the loadstone for this document. However, this recommendation is made with the full awareness that without the commitment of the communities to create a new definition of "us," potential opportunities will not be realized and unification may be blamed for any encountered difficulties.

*See also* the discussion of the Twinfield Union School District at #24 of Part VI(C)(a) below.



## **b. MUUSDs and NMEDs**

### ***Overview of MUUSD and NMED Structures and Issues***

The Legislature enacted the first voluntary merger program in 2010 when it offered tax rate reductions and other transitional assistance to districts that created UUSDs that either had a combined ADM of 1,250 or resulted from the merger of at least four districts (the “RED” program of Phase 2).

Because of their inter-relationship, an existing UHSD and its member elementary districts can create a UUSD only if the voters in all elementary districts approve creation of the new district. In 2011, voters in two Chittenden East SU districts defeated creation of a UUSD. In 2012, upon the request of representatives of Chittenden East, the Legislature enacted an exception to the RED program by granting eligibility for tax rate reductions and other transitional assistance to a unified district approved by a majority, rather than all, of the member elementary districts of an existing union high school district, coining the term Modified Unified Union School District (“MUUSD” – typically pronounced “mud”).

A MUUSD is responsible for the PreK-12 education of students residing in those towns that approved the merger and for the secondary education of the students residing in the town(s) that did not.

A MUUSD supplants the union high school district and all elementary districts that approved unification, which dissolve when the MUUSD assumes full operations. The district or districts that did not approve unification continue to exist as independent elementary school districts (colloquially referred to as the Non-Member Elementary District or “NMED”).

An NMED is a town elementary school district that is organized and responsible for the education of its elementary school students. The town in which the NMED is located is a member of the MUUSD for whatever grades the town was a member of the original union high school district.

The relationship between the NMED and the MUUSD is no different, legally, than the relationship between the town elementary school district and the union high school district prior to creation of the MUUSD. They are separate legal entities responsible for different, distinct groups of students.

Both the MUUSD and the NMED are member districts of an SU.

Even if a MUUSD’s ADM is sufficiently large, the MUUSD cannot become its own SD (a single-district SU, which is the Legislature’s preferred structure), because the existence of the NMED requires continuation of the overarching SU structure around the two districts. As a result, it is theoretically possible that the NMED exists due to a narrow margin of votes in a very small school district that defeated unification – and yet those few votes preclude elimination of the SU administrative structure and the SU assessments over which voters have no direct control. Therefore, the NMED prohibits creation of the Legislature’s “preferred structure,” inhibits realization for all schools of any savings that would result from elimination of the SU, and creates a barrier to transparency and accountability especially as they relate to SU budgets.



## **Two Final Observations**

- MUUSDs created in the 1970s: Although the Legislature did not formally acknowledge the existence of MUUSDs until granting them eligibility for tax rate reductions and other transitional assistance in its 2012 legislation, several school districts have existed for decades that are structurally similar to an MUUSD. For example, in the North Country Union High School District, of the 11 elementary districts that are also members of the union high school district for grades 9-12, only five are also members for grades 7-8. Four of the other six districts operate PreK-8 and the remaining two districts pay tuition for grades 7-8, although one will join the union high school district for grades 7-8 in FY 2019.

It is not clear whether the State Board has independent authority to create a school district with this “modified” structure in its statewide plan.

- Authority to expand membership in a unified district: Act 46 prohibits the State Board’s statewide plan from requiring the merger of, among others, any unified district eligible for tax rate reductions under one of the three voluntary phases. Nothing precludes the State Board from requesting that the exempt unified district consider enlarging its membership to include another district. In fact, Act 49 includes transitional funds for an exempt district that agrees to the State Board’s request.<sup>43</sup>

The question then arises: who in a UUSD has authority to approve adding a new member to the union if the State Board requests it to do so? The voters or the unified board?

In most situations, the answer is clear: Only a majority of the voters of the entire exempt UUSD can vote to approve the addition of a new member if requested by the State Board. This conclusion is based on several provisions of law, *e.g.*, (1) the warning for the original merger vote must include the potential members of a UUSD and only the voters can amend any item that was included explicitly in that warning – including addition of a new member (*e.g.*, 16 V.S.A. §§ 706f and 706n); and (2) voters in a UUSD must vote whether to approve the addition of a new member regardless of whether the request is initiated by the district seeking admission or the UUSD itself, 16 V.S.A. § 721.

The answer is less clear when the State Board requests an MUUSD to expand to include the NMED as a full PreK-12 member.

- On the one hand, the UUSD Board may have authority to approve the request because the NMED is already a member of the MUUSD for secondary grades, so the Board’s approval would not change the members of the unified district, although it would expand the grades for which the NMED is a member.

In addition, when the voters of the potentially merging districts originally approved merger, they voted on a warning that included the district that

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<sup>43</sup> Act 49, Sec. 8.

ultimately became the NMED and so, arguably, have already approved inclusion of that district in the unified district.

- Possibly countering those arguments, however, is the fact that each of the articles of agreement stated that if the NMED voted before a date certain to join the MUUSD as a full member, then the MUUSD voters were presumed to have approved the addition for purposes of 16 V.S.A. § 721. This leaves unanswered whether this pre-approval provision, which explicitly addresses NMED-initiated action, has any significance in connection with a State Board request for the MUUSD to accept the NMED and, if yes, would thus require approval by the MUUSD voters.

If the State Board requests one or more MUUSDs to accept the NMED as a full PreK-12 member, then the MUUSD should seek the advice of its legal counsel regarding whether a majority of the MUUSD board can vote to approve full PreK-12 membership of the NMED or whether, in an abundance of caution, the question should be presented to the MUUSD voters.

## **6. The Barnard Elementary School District (NMED)**

The Barnard Elementary School District is the sole NMED in the newly created Windsor Central MUUSD. The MUUSD assumes full responsibility on July 1, 2018 to provide for the PreK-12 education of students residing in the towns of Bridgewater, Killington, Plymouth, Pomfret, Reading, and Woodstock and for the grade 7-12 education of students residing in Barnard. The Barnard District remains an independent town district organized to provide for the PreK-6 education of its resident students.

The Barnard District has a K-6 ADM of 62.00 in FY 2018. The MUUSD has a K-12/7-12 ADM of 753.84 and the Pittsfield School District<sup>44</sup> (K-12 tuitioning) has an ADM of 56.30 in the same fiscal year, for a total of 872.14 in the SU.

The Barnard District's K-6 student population has fluctuated dramatically over the last five fiscal years, although its highest ADM is in the current fiscal year. The two largest changes (decrease of 8.10 students in FY 2016 – FY 2017 and an increase of 11.10 students in FY 2017 – FY 2018) represent changes of 13.7% and 21.8% respectively.

The Barnard voters rejected a proposal to create a union school district on March 7, 2017 as follows:

103 Yes  
155 No  
10 Blank or Spoiled

### **District's Sec. 9 Analysis and Proposal**

The Barnard District proposes to remain a single-town elementary district within the Windsor Central SU.

In written responses<sup>45</sup> ("the Responses") to the topics that the Agency provided all districts for planning purposes in advance of the Section 10 Conversations, the Barnard District describes in detail the ways in which its Prekindergarten Program, After School Program, Place-Based Learning Initiative, and other programs "offer[] substantial learning and social opportunities[, remove] economic barriers[, and in some instances are] especially helpful for children with learning differences and learning challenges." The Barnard District also outlines new initiatives it is pursuing in concert with the superintendent, including "learning hubs" and expanded foreign language opportunities.

The Barnard District is understandably proud of its prekindergarten program, particularly as a strategy by which it is working to enhance equity. The program:

offers 21 hours to 3 year-olds and 35 hours to 4-year-olds at no cost to families. Our 4-Star preschool program leads the SU's commitment to early education by funding Unified Arts coursework to these students, such as

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<sup>44</sup> The Pittsfield School District wishes to remain a member district of the Windsor Central SU and the MUUSD has voted in support of that request. See #16 of Part VI(B) below.

<sup>45</sup> Barnard's written responses are copied in full in its Snapshot at Appendix F.

library, art, music, and PE. Positive outcomes have been steady pupil count; improved early reading/literacy achievement; stronger math, social science, and science knowledge; greater social/emotional skills; and greater participation in the wider school community. Our program has been supported by our taxpayers for ten years while our districts' per pupil spending has remained low to average for the State.

The Section 9 Proposal and the Responses discuss many elements of the Barnard District's current operations and plans for the future. They also lay out many interrelated concerns regarding full PreK-12 membership. For example, the Barnard District believes that the MUUSD's model of board representation disadvantages residents in the smaller towns (each of the six smaller towns is apportioned two members each and the one larger town has six members). In addition, it states that at "a small school, flexibility and creativity are paramount to administering the budget in an efficient way and still achieving the quality and breadth of student opportunities..." and an "independent, 3-member [board] ... is currently the best way to protect the level of efficacy required."

The Barnard District's Proposal, the Responses to the common topics, and the Conversation itself, however, crystalize around two overriding concerns: (1) the ability of Barnard to maintain its current prekindergarten program and (2) the potential closure of some grades in the Barnard elementary school.

First, the Barnard District is particularly concerned that full PreK-12 membership in the unified district will undermine its ability to maintain its current program:

Barnard Academy's Preschool Program leads the commitment to Equity in Early Education within our supervisory union, and Board independence is required at this time to sustain it. Our full-time public preschool program will be in jeopardy in a merger with WCMUUSD.

The Barnard District asserts that it is "geographically isolated," with a high elevation and "seasonally inhospitable" travel routes and that this "underscores the importance of maintaining reliable, high quality early education within [the] community."

Second, the Barnard District is also concerned that the unified district will reduce the grades offered in Barnard. During the original merger discussions, the § 706 Study Committee considered restructuring Barnard's elementary school as a PreK-2 and requiring students in grades 3-6 to enroll in another school operated by the unified district. Ultimately, the MUUSD's voter-approved articles direct the new unified board to:

develop a plan for sustainable campus and classroom configurations starting in July 1, 2018. The Study Committee recommends, as a starting place for these deliberations, the restructuring of the Barnard and Reading schools into PK-4 primary schools .... (MUUSD Article 15)

The Barnard District asserts that requiring full PreK-12 merger as envisioned by the Study Committee will "undercut[] a school and a community that is thriving."

We argue that our plan will create the smallest number of districts practicable within our region at this time because ... the [MUUSD's] Articles of Agreement ... undermine our district's and the WCSU's ability to best meet the goals of Act 46.

Barnard's Responses state that merger "is 'possible,' but there is no evidence that it would lead to better student outcomes, increased equity, lower costs, increases in transparency or accountability, or lower tax rates." The Responses also explain why the Barnard District believes that merger is not "practicable"

Our electorate voted down a merger with WCSU towns because the merger terms were likely lead [sic] to centralizing students to more central school and closing a thriving community school, which we believe would undermine the equity, academic excellence, and sustainability goals of Act 46. Before and after the vote, we sought to amend three Articles of Agreement of the merger plan (those related to Board composition, protections for school closure, and school restructuring) towards terms we felt were equitable to our town's citizens. Merger committee members, and then representatives on the not-yet-ratified WCMUUSD Board did not wish to pursue the conversation. Imbalances of power between merging communities require a structural solution that give representatives of smaller towns a real voice in school decisions, and that balance the real inequities in political and financial resources. As representatives of the Barnard School District, we continue to work towards just such a structural solution across our SU, in order to secure the best opportunities for our kids. Until such a solution is reached, we believe it is impracticable to merge with the MUUSD in light of the goals of Act 46.

For more details, see the district's Snapshot Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#); and the Study Committee's Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary's Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the "preferred structure" for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership." Nevertheless, the Legislature limits the State Board's authority to include SUs with multiple member districts in the statewide plan by declaring that the "State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) is the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The Barnard District asserts that its voters disapproved the merger proposal on a two-to-one basis “because the merger terms were likely lead [sic] to centralizing students to more central school and closing a thriving community school, which we believe would undermine the equity, academic excellence, and sustainability goals of Act 46.” Merger is not “impossible” or “impracticable” solely because a community has expressed a preference to maintain its current governance structure and decision-making authority. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into the UUSD structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable if a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

The Barnard District also declares that for “a small school, flexibility and creativity are paramount to administering the budget in an efficient way and still achieving the quality and breadth of student opportunities...” and that an “independent, 3-member [board] ... is currently the best way to protect the level of efficacy required.” To put this in the words of the Act 46 goals, the district is contending that a small, local board is the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from local decision-making and a school-centric budget, which is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that a UUSD with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency, accountability, and fiscal efficiency, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.<sup>46</sup>

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<sup>46</sup> Other than the initial vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a



The Barnard District argues that the MUUSD’s model of board representation, where each of the six smaller towns is apportioned two members each and the one larger town has six members, disadvantages smaller towns. Even assuming that the members of a unified board are incapable of learning to view all of the district’s students as “our” students rather than as students of “either my town or some other town,” the district’s assertion is not dispositive. If, as Barnard contends, this structure causes an “imbalance of power” that requires a “structural solution that give representatives of smaller towns a real voice in school decisions, and that balance the real inequities in political and financial resources,” then – whatever weaknesses there may or may not have been with Barnard’s representation on the Study Committee<sup>47</sup> – Barnard now has passionate spokespeople who have pledged to continue working with the MUUSD to effectuate the changes. The fact that one group of voters has not yet been able to convince other voters to amend existing articles of agreement is not, as Barnard asserts, in and of itself a reason to delay Barnard’s full PreK-12 membership in the unified district until the voters seeking change obtain their desired result. In light of the fact that the combined board membership of the six small towns is double that of the one large town, it is arguable that Barnard citizens would have more success obtaining amendments on behalf of small towns if they work with the five other small towns as a sixth full PreK-12 member of the unified district.

The Barnard District claims that it is “geographically isolated,” with a high elevation and “seasonally inhospitable” travel routes. Although much of its discussion regarding isolation concerns the soon-to-be-issued small school grants metrics, the district states that “Barnard’s geographic isolation underscores the importance of maintaining reliable, high quality early education within our community.”

The ability to maintain its current full-time public prekindergarten program is one of Barnard’s two overarching concerns. Certainly its program is commendable, undertaken both to increase equity and with an eye to reducing future education costs for its resident students. Even as a single-town district that operates a prekindergarten program, however, nothing in statute prevents a Barnard family from requiring the district to pay up to ten hours of tuition to a different public or private prekindergarten program – perhaps one that is nearer to a parent’s workplace – even if there is space available in the Barnard program. In a merged district, however, no payment would need to be made to a program located in one of the other buildings operated by the unified district.

Barnard claims that the region is in need of prekindergarten options and the MUUSD is working towards developing programs in its member towns. The Barnard District is concerned that the MUUSD’s plans for expansion will be for less-than full-time programs in these other locations and, if Barnard were a full PreK-12 member, the unified district

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switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions “from the floor.”

<sup>47</sup> The Section 9 Proposal asserts that Barnard’s interests were not well-represented on the Study Committee, and ultimately in the Articles of Agreement, because the Barnard District had three different representatives on the Committee, missed five meetings “during a crucial four-month decision-making period,” the Study Committee representatives did not engage the Barnard community, and decisions were made based upon misinformation, including adoption of the Town-by-Town Model of board proportionality rather than the Hybrid Model.

would not support the continuation of a full-time program in Barnard. First, there is nothing that would legally preclude a unified district from operating a full-time prekindergarten program in one location and part-time programs in others. Each school within a unified district does not have to be exactly the same in order for there to be equitable opportunities, especially if the unified district is working to increase programming in areas where it is not fully available. In addition, the program located in Barnard could serve as a pilot for the expansion of public prekindergarten programs throughout the unified district. To the extent that full-time prekindergarten is not available in other towns, Barnard could become the hub of early education for the unified district, or at least for one section of the district, particularly if the unified district provided transportation. In addition, to the extent that it is available, the increased PreK opportunities will benefit Barnard residents as well as families throughout the region.

The Barnard District's second major concern about full PreK-12 membership is that the unified district will choose to stop operating some grades currently offered at Barnard's elementary school. As explained above, during the original merger discussions, the study committee considered restructuring Barnard's elementary school as a PreK-2 and requiring students in grades 3-6 to enroll in another school operated by the unified district. Ultimately, the MUUSD's voter-approved Article 15 directs the new unified board to:

develop a plan for sustainable campus and classroom configurations starting in July 1, 2018. The Study Committee recommends, as a starting place for these deliberations, the restructuring of the Barnard and Reading schools into PK-4 primary schools ....

Clearly this concept is a work in progress and any potential grade restructuring is not settled. Again, as with its objection to the model of board representation, the fact that one group of voters has not yet been able to convince other voters to amend existing articles of agreement is not, as Barnard asserts, in and of itself a reason to delay Barnard's full PreK-12 membership in the unified district until the voters seeking change obtain their desired result. In addition, also as with the board representation issue, Barnard's ability to obtain the result it seeks is likely to be greater if it is a full PreK-12 member of the unified district than if it attempts to negotiate "from the outside."

It is important to remember that the Barnard Elementary District is a very small district with an ADM that fluctuates dramatically and that, for a unified district, the MUUSD is very small as well. It is important that communities take advantage of the flexibility that a unified structure offers for the benefit of all children in the region.

The Barnard District acknowledges that merger "is 'possible,' but there is no evidence that it would lead to better student outcomes, increased equity, lower costs, increases in transparency or accountability, or lower tax rates" and that it would damage a school and community that are thriving. Even assuming that these contentions are true, it cannot be said that the merger would have no benefit for the region. But for the existence of the Barnard Elementary District, there would be no need for the complex accounting mechanisms necessary to support an interrelated PreK-12/7-12 district and a PreK-6 district. If the State Board redraws SU boundaries so that the Pittsfield District is no

longer a member of the SU, then a fully unified Windsor Central UUSD could, potentially, be its own single-district SU (although it would be a small one). If the State Board made that change, then there would be no need for the separate SU structure or for SU assessments that the voters have no direct ability to approve or reject. In addition, the school located in Barnard could become one in which other students in the region enroll through intradistrict elementary school choice or with which other schools could more easily share point-in-time programming. The ability to access Barnard's staff, unique programming, and other resources would be simplified, and the unified district's workforce might become even more stable by converting part-time staff to full-time employees. Thus, the addition of Barnard as a full PreK-12 member of the unified district has the potential to benefit the students and taxpayers in the other member towns of the district.

It is also not clear that merger would have no benefit for the students and taxpayers of Barnard and improve the school's chances of continuing to operate and offer vibrant programming opportunities. The Barnard District's K-6 ADM has fluctuated dramatically during the last five fiscal years, decreasing in one year by 13.7% (8 students) and increasing by 21.8% (11 students) in the next. Given the State Board's current draft metrics for small school grant eligibility, it is questionable whether the district will continue to receive the ~\$85,000 annually in statewide education funds to support continuation of its programs. Larger governance structures have been shown to provide the flexibility needed to mitigate annual budget and tax increases, moderate tax rate fluctuations caused by changes in ADM, and allow small or struggling schools to stay open and good programs to remain intact or be expanded.

No facts have been presented that support a conclusion that merger is not "possible" or "practicable" in this instance, nor can the Agency identify any other facts that would do so.

In addition, the Barnard Board's argument that maintaining its current structure is the "best" means for Barnard to create a sustainable structure capable of meeting the Act 46 Goals is not convincing enough to overturn the Legislature's presumption that a UUSD is the "preferred" means of doing so.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature's determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner -- even in regions where, as here, it will be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership."

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for both the district individually and for the region – is for the State Board of Education to merge the Barnard Elementary School District and the Windsor Central Modified Unified Union School District into a single UUSD by requesting the MUUSD to accept the Barnard District as a full PreK-12 member.*

This proposal generated a particularly significant level of discussion among Agency staff. It was a difficult decision because of unification's potential effects on the district's

prekindergarten program. Ultimately, the statewide plan must take the long term view of what is best for all children in the region. It is the Secretary's hope that the unified district will consider using the Barnard program as the hub of its prekindergarten opportunities or as a model for expansion throughout the unified district.

The Secretary trusts that the community's concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

## **7. The Cambridge Elementary School District (NMED)**

The Cambridge Elementary School District is the sole NMED in the newly created Lamoille North MUUSD. The MUUSD assumed full responsibility on July 1, 2017 to provide for the PreK-12 education of students residing in the towns of Belvidere, Eden, Hyde Park, Johnson, and Waterville, and for the grade 7-12 education of students residing in Cambridge. The Cambridge District remains an independent town district organized to provide for the PreK-6 education of its resident students.

The Cambridge District has a K-6 ADM of 296.85 in FY 2018. The MUUSD has a K-12/7-12 ADM of 1,321.26 in the same fiscal year, for a total of 1,618.11 in the SU. But for the existence of the Cambridge District, the SU superstructure could dissolve and the unified district – due both to its structure and its size – would be large enough to be its own SD (*i.e.*, a single-district SU).

The Cambridge District's student population in K-6 has declined steadily in each of the last five fiscal years, from a high of 341.85 in FY 2014 to its current low of 296.84, a drop of 13% percent. From FY 2017 to FY 2018, the Cambridge K-6 enrollment decreased by 11 while the K-6 enrollment of the Lamoille North MUUSD increased by 28.

The Cambridge voters rejected the proposal to create a UUSD when the Lamoille North districts voted in April 2016 (128 Yes; 164 No).

### **District's Sec. 9 Analysis and Proposal**

At the Cambridge District's Conversation on February 8, 2018, the Board representatives stated that the Cambridge school has an array of high quality programs. At the time of the merger vote – and even today – there is fear that a larger unified board would dilute or remove the programs from the school in order to provide more opportunities in other elementary school buildings or to lower the unified district's budget. The representatives also recognized that the MUUSD is currently expanding opportunities – *e.g.*, sharing language instruction – and that unification makes it easier to align curriculum and programs so that all students can benefit from high quality programming.

The Cambridge District representatives noted that savings, reduced-expenditures, and carry-forward has insulated taxpayers in the MUUSD from upward pressure on tax rates. Cambridge has a low tax rate in comparison to the rest of the region. They stated that not only would the 8 cent tax rate reduction afforded through Act 46 have translated into only a 1.5 cent reduction<sup>48</sup> for taxpayers living in Cambridge, but even the savings actually realized by the MUUSD would have provided little benefit to Cambridge taxpayers.

The Cambridge District has determined that many of the concerns that led its residents to reject merger can be addressed either by discussions with the MUUSD board, while other concerns can be addressed only if the MUUSD voters approve amendments to the articles of agreement. The Cambridge and MUUSD boards are discussing potential changes to the articles of agreement to address the Cambridge voters' areas of concern.

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<sup>48</sup> AOE Note: There would have been a 2.4 cent reduction in FY 2018.

For more details, see the district’s Snapshot at Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#); and the Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The Cambridge District acknowledges that the merged structure has insulated MUUSD taxpayers from upward pressure on tax rates but asserts that merger would likely have little positive effect on tax rates for Cambridge residents.

The Cambridge District has been experiencing a steady, significant decline in its student population. Experience throughout the State demonstrates that decreasing student population in a small district is not sustainable and ultimately leads to a downward spiral of increasing tax rates, reduced programming, and frequent staff turnover. Larger governance structures have been shown to provide the flexibility needed to mitigate annual budget and tax increases, moderate tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded. In addition, if the Cambridge District and the MUUSD merged, then the school located in Cambridge could become one in which other students could enroll through intradistrict elementary school choice. The ability to share Cambridge’s staff and other resources would be simplified.

Even assuming the accuracy of the assertion that merger would not positively affect tax rates in Cambridge, the Legislature requires the State Board to have a regional focus as it merges districts where necessary to create sustainable structures.



But for the existence of the Cambridge Elementary District, there would be no need for a separate SU structure, nor would there be SU assessments that the voters have no direct ability to approve or reject or the complex accounting mechanisms necessary to support an interrelated PreK-12/5-12 district and a PreK-4 district. The fully unified district would also be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a “preferred structure.”

The addition of the Cambridge District as a full PreK-12 member of the unified district therefore has the potential to benefit the students and taxpayers of Cambridge as well as the students and taxpayers in the other member towns.

The Cambridge District and the MUUSD boards are working to address the lingering concerns of Cambridge residents.

The Cambridge District does not assert that it is not “possible” or “practicable” to assume full PreK-12 membership in the unified district, nor can the Agency identify any facts that would support such a claim. In addition, the unified district would be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a “preferred structure.”

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for both the district individually and for the region – is for the State Board of Education to merge the Cambridge Elementary School District and the Lamoille North Modified Unified Union School District into a single unified union school district by requesting the MUUSD to accept the Cambridge District as a full PreK-12 member.*

## **8. The Huntington Elementary School District (NMED)**

The Huntington Elementary School District is the sole NMED in the Mount Mansfield MUUSD. The MUUSD assumed full responsibility on July 1, 2015 to provide for the PreK-12 education of students residing in Bolton, Jericho, Richmond, Underhill, and Buel's Gore, and for the grade 5-12 education of students residing in Huntington. The HESD remains an independent town district organized to provide for the PreK-4 education of its resident students.

The Huntington District has a K-4 ADM of 100.00 in FY 2018. The MUUSD has a K-12/5-12 ADM of 2,244.59 in the same fiscal year, for a total of 2,348.59 in the SU. But for the existence of the Huntington District, the SU superstructure could dissolve and the unified district – due both to its structure and its size – would be large enough to be its own SD (*i.e.*, a single-district SU).

The Huntington District's K-4 ADM has declined by 24.2% over the last five fiscal years. Over the same time, the K-4 ADM of the MUUSD increased by 6.2%.

Between 2011 and 2018, the Huntington voters rejected two proposals to create a UUSD and another two ballot items to join the existing MUUSD as a full PreK-12 member.

Despite these repeated rejections of merger, Huntington taxpayers benefitted from tax rate reductions in connection with the grades 5-12 budget in FY 2016 through FY 2019 due to Huntington's membership in the MUUSD for those grades (reductions of \$ 0.08, 0.06, 0.04, and 0.02).<sup>49</sup>

### **District's Sec. 9 Analysis and Proposal**

The Huntington District did not submit a written Section 9 proposal.

At the Huntington District's Conversation on April 27, 2018, school board representatives and other community members stated that it is important to maintain a town-based elementary school in Huntington so that, *e.g.*, the youngest children do not have long bus rides, parent volunteers have easy access to the school, and the school can continue to be used as a way to welcome young families into the community at large.

The Huntington District has had stable multi-age classrooms for many years, having chosen this structure as a matter of educational policy and not as a means to manage fluctuating class sizes. The district hires part-time teachers as necessary. For example, it employs a 0.4 foreign language teacher, who is hired for additional hours elsewhere.

Regarding student assessments, the Huntington Board's Chair reported that the district's students perform at the median and sometimes above it.

The participants in the Conversation stressed that the community loves the school building and has "gone above and beyond" to maintain and improve it. In fact, much of the April 27 Conversation centered on the fairly recent addition of energy-efficient systems to the building and the concern that the larger UUSD community would not have supported the project. The

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<sup>49</sup> The Legislature exempted Huntington from Act 49, Sec. 22, which prohibits an NMED from benefitting from the tax rate reductions for which its MUUSD is eligible.

Huntington District fears that if it becomes a PreK-12 member of the unified district, then any problem with or desired improvement to the Huntington building would not be a priority of the unified district for many years. As the Board Chair stated, Huntington would no longer control its own destiny.

The Huntington representatives also expressed concern that full membership would not be good for the town as a whole, because gathering to discuss issues is good for the community and it is less likely that citizens would travel a long distance to attend school board meetings. In addition, while the MUUSD relies upon a policy-governance model, the Huntington District operates according to what it terms “participatory governance” – that is, local citizens raise concerns at board meetings, where they are discussed in full. The Huntington District representatives believe that this approach is more flexible in addressing issues as they arise and that it encourages community engagement.

The Huntington District sees the appeal of merger, but does not believe that PreK-4 membership will benefit Huntington. It already relies upon the SU for efficiencies, such as collective bargaining of its contracts. In addition, the Huntington District believes that it is too far distant from other schools to benefit from intradistrict sharing and intradistrict school choice being implemented in the elementary schools of the MUUSD.

The Huntington representatives reported that, for purposes of employment, health care, recreation, etc., the community is involved with many communities in the region other than Jericho and Underhill.

For more details, see the district’s Snapshot at Appendix F; common data points at Appendix G; and the Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The Huntington Board discussed both the importance of retaining local decision-making and also the local community's desire to retain the current model of "participatory governance" and the ability to "control its own destiny." The Board also reported the community's desire to maintain a local elementary school building for its youngest students, both to avoid long bus rides and also to maintain and encourage parental involvement. In addition to these two concerns, the Huntington Board focused primarily on pride in its school building and concern that the full unified district would not prioritize that building's structural needs.

The FY 2018 ADM for the Huntington District is 100 for K-4, with more than one classroom for its multi-age units. These multi-age classrooms have been in place for many years and are the result of educational policy, not as a way to manage fluctuating student populations. If, as the Huntington District contends, Huntington is too remote from the other elementary school buildings to benefit from intradistrict sharing and school choice, then that distance plus the school's relatively robust ADM would minimize any likelihood that the school will be closed. As a result, even if merged, a young child will be able to be educated in Huntington and avoid long bus rides unless the child's family wishes to take advantage of intradistrict elementary school choice. In addition, given this unlikelihood that the school would be closed, parental volunteerism and using the school to embrace new young families into the community would similarly be unaffected.

Inherent in the desire to maintain local decision-making authority and a "participatory governance" model is the premise that these are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from local decision-making and a school-centric budget, which is amended and voted on "from the floor," to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature's presumption that the "preferred structure" with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency, accountability, and fiscal efficiency, the shift to a unified board and to Australian ballots is not a reason to preclude the State Board from requiring merger.

In the other four communities, the MUUSD is transforming existing parental fundraising groups into community entities that provide information, listen to local concerns, identify the priorities of the local residents, and give information and advice to the MUUSD Board. Therefore, even though Huntington citizens' access to the decision-making body would be shared with other residents of the UUSD and although they may need to travel further to attend school board meetings, Huntington citizens would not be without a local ear or voice. Huntington's participation in the creation and implementation of these structures could be critical to their ability to address its concerns regarding the loss or dilution of voter engagement.

The prioritization of repairs or improvements to a school building is not a concern of the statewide plan – except to the extent that those repairs and improvements might be performed more efficiently and for less cost as part of a unified system.

The Board noted that the community has consistently voted against proposals to join the unified district as a full PreK-12 member. Merger is not “impossible” or “impracticable” because a community wishes to maintain its current governance structure and decision-making authority. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

The Huntington District contends that PreK-4 merger would provide no benefits to Huntington students and taxpayers. Even assuming that this contention is true, it cannot be said that the merger would have no benefit for the region. But for the existence of the Huntington Elementary District, there would be no need for a separate SU structure, nor would there be SU assessments that the voters have no direct ability to approve or reject or the complex accounting mechanisms necessary to support an interrelated PreK-12/5-12 district and a PreK-4 district. In addition, the school located in Huntington could become one in which other students in the region enroll through intradistrict elementary school choice. The ability to share Huntington’s staff and other resources would be simplified, and the MUUSD’s workforce might become even more stable by converting part-time MUUSD staff to full-time employees. Thus, the addition of Huntington as a full PreK-12 member of the unified district has the potential to benefit the students and taxpayers in the other member towns of the district.

Although the Huntington District did not indicate that staff turnover is an issue in the school, it did mention that it hires some teachers – *e.g.*, for foreign language instruction – through part-time contracts. Experience throughout the State indicates that teachers with one or even several part-time contracts tend to leave a school if another district offers full-time employment and benefits. A district with more than one elementary school is not only more likely than a small, single-town district to offer a full-time contract for work within multiple buildings, but is less likely to reduce or eliminate the position if student numbers fluctuate in any one building. While hiring staff on a partial FTE basis may be all that is available in some regions of the state – especially where districts cannot merge unless the voters agree to change the current operating/tuitioning structures – it is an inherently unstable one.

Finally, unlike taxpayers in the other NMEDs, the Huntington taxpayers have already benefitted from merger by receiving tax rate reductions for four years in connection with the grades 5-12 portion of the budget. On the other hand, pursuant to the MUUSD’s Articles of Agreement, the SU assesses the Huntington District for SU costs that arise solely because HESD has chosen to maintain its independent status.

The Huntington District does not assert that it is not “possible” or “practicable” to assume full PreK-12 membership in the unified district, nor can the Agency identify any facts that would support such a claim. In addition, the fully unified district would be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a “preferred structure.”

The Huntington District’s argument that maintaining its current structure is the “best” means for Huntington to create a sustainable structure capable of meeting the Act 46 Goals is not convincing enough to overturn the Legislature’s presumption that a UUSD is the “preferred” means of doing so.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for both the district individually and for the region – is for the State Board of Education to merge the Huntington Elementary School District and the Mount Mansfield Modified Unified Union School District into a single UUSD by requesting the MUUSD to accept the Huntington District as a full PreK-12 member.*



## **9. The Orwell Elementary School District (NMED)**

The Orwell Elementary School District is the sole NMED in the Slate Valley MUUSD. The MUUSD assumes full responsibility on July 1, 2018 to provide for the PreK-12 education of students residing in Benson, Castleton, Fair Haven, Hubbardton, and West Haven, and for the grade 9-12 education of students residing in Orwell. The Orwell District remains an independent town district organized to provide for the PreK-8 education of its resident students.

The Orwell District has a K-8 ADM of 121.50 in FY 2018. The MUUSD has a K-12/9-12 ADM of 1,106.42 in the same fiscal year, for a total of 1,227.92 in the SU. But for the existence of the Orwell Elementary District, the SU superstructure could dissolve and the unified district – due both to its structure and its size – would be large enough to be its own Supervisory District (an “SD” – *i.e.*, a single-district SU).

The Orwell District’s student population in K-8 has fluctuated over the last five fiscal years. The two largest changes, a decrease of 5.75 students FY 2014 – FY 2015 and an increase of 7.60 students in FY 2015 – FY 2016, represent changes of -6.0% and 8.8% respectively, although the overall trend has been upward since FY 2014.

Between April 2016 and March 2017, Orwell voters rejected creation of a UUSD on three occasions:

Proposal #1 (without an MUUSD option)

121 Yes / 211 No

166 Yes / 204 No (on reconsideration)

Proposal #2 (with MUUSD option)

137 Yes / 219 No

### **District’s Sec. 9 Analysis and Proposal**

Although the board members in office at the time of the votes approved the merger proposals, the current Orwell District Board members have not reached consensus on the best way forward and did not submit a written Section 9 Proposal from the entire board.

At the Orwell District’s Conversation on March 20, 2018, the school board representatives were skeptical that full PreK-12 membership would lead to better options for Orwell students or taxpayers. They stated that the Orwell District “takes good care” of its students who struggle. The board representatives acknowledged that they are more likely to receive criticism that they do not meet the needs of higher-achieving students. These students are not always as well prepared for the high school curriculum as are other students in the SU and need to work hard to “catch up” with their peers once they enter 9<sup>th</sup> grade. The Orwell District is working with the SU’s curriculum coordinator to address this issue.

The Orwell District is concerned that full PreK-12 merger will make it less convenient for parents and other taxpayers to participate in school activities and make decisions regarding the school’s future. Specifically, full merger would remove Orwell taxpayer’s direct ability to “change, approve or disapprove the budget” at town meeting.

The Orwell District has historically had strong, positive, collaborative relationships with other elementary districts in the SU, partially evidenced by their sharing of a teacher with Benson. The board representatives expressed some concern that if the Orwell District remains an independent elementary school district, then it might engender “bad feelings” that negatively affect its relationships with the towns that approved full membership in the MUUSD.

For more details, see the district’s Snapshot at Appendix F common data points at Appendix G; and the Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

At the March 20 Conversation, some representatives and community members argued against merger because it would remove the Orwell taxpayers’ direct ability to “change, approve or disapprove the budget” at Town Meeting.<sup>50</sup> The Agency notes that the Orwell District currently pays a substantial SU assessment that cannot be amended by the Orwell electorate when it considers the budget. Inherent in the desire to maintain local decision-making authority is the premise that this is the best way to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from local decision-making and a school-centric budget, which is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided

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<sup>50</sup> The Agency notes that the Orwell District currently pays a substantial SU assessment which cannot be amended by the Orwell electorate when it considers the budget.

by Australian ballot. Given the Legislature’s presumption that the “preferred structure” with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency, accountability, and fiscal efficiency, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

The MUUSD’s voter-approved articles require the unified board to develop structures “to support and encourage public participation.” Orwell’s participation in the creation and implementation of these structures could be critical to the structures’ ability to address Orwell’s concerns regarding the loss or dilution of voter engagement.

Unlike many other districts presenting proposals under Sec. 9, the Orwell District did not express fear that a unified district would close the Orwell school building or that young children will experience excessively long bus rides. The MUUSD’s voter-approved articles of agreement contain some of the most stringent provisions regarding building closure and re-use of any of the State’s new unified districts. No K-8 building can be closed during the first four years. In all subsequent years, closure requires a 75% vote of the unified board and approval by the voters of the town in which the building is located. Similarly, use of a building for an educational purpose other than direct instruction involves a 75% vote of the unified board. The unified district operates under the “Hybrid” model of board representation, and each town receives three seats on the board regardless of the relative size of the town’s population.

The next nearest elementary school building is approximately 8 miles (9 minutes) from the Orwell District building. Even if the unified district eventually closed the Orwell building or reconfigured grades between the Benson and Orwell buildings (neither of which has been suggested, to the best of the Agency’s knowledge), full PreK-12 membership would likely not cause long bus rides or have a significant effect on the level of parental volunteers.

During the March 20 Conversation, the board representatives and other community members did not provide examples of the benefits that full PreK-12 membership would make available to Orwell students and taxpayers. At very least, perhaps unification would provide additional resources to help Orwell students be as prepared as their peers in other towns for the more academically challenging classes offered at the high school. Even if full membership would create no benefits for Orwell, it cannot be said that the merger would have no benefit for the region. But for the existence of the Orwell Elementary District, there would be no need for a separate SU structure, nor would there be SU assessments that voters have no direct ability to approve or reject or the complex accounting mechanisms necessary to support an interrelated PreK-12/5-12 district and a PreK-4 district. In addition, the school located in Orwell could become one in which other students in the region enroll through intradistrict elementary school choice. The ability to share Orwell’s staff and other resources would be simplified, and the MUUSD’s workforce might become even more stable by converting part-time MUUSD staff to full-time employees. Thus, the addition of the Orwell District as a full PreK-12 member of the unified district has the potential to benefit the students and taxpayers in the other member towns of the district.

Some Board representatives and members of the public noted that the community has consistently voted against proposals to join the unified district. Merger is not “impossible” or “impracticable” because a community wishes to maintain its current governance structure and decision-making authority. The Legislature determined that a UUSD that is its own SD is the

governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable if a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

Regarding the concern that “bad feelings” might negatively affect collaboration with other districts if the Orwell District remains a single-town district: on a practical level, even if there is no animosity, the ease with which collaboration can occur in a unified district might cause the MUUSSD to favor intradistrict collaboration among its elementary schools rather than the more cumbersome alliance with an independent Orwell District.

The Orwell District does not assert that it is not “possible or practicable” to assume full PreK-12 membership in the unified district, nor can the Agency identify any facts that would support such a claim. In addition, the unified district would be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a “preferred structure.”

No argument presented that maintaining its current structure is the “best” means for Orwell to create a sustainable structure capable of meeting the Act 46 Goals is convincing enough to overturn the Legislature’s presumption that a UUSD is the “preferred” means of doing so.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for both the district individually and for the region – is for the State Board of Education to merge the Orwell Elementary School District and the Slate Valley Modified Unified Union School District into a single UUSD by requesting the MUUSSD to accept the Orwell District as a full PreK-12 member.*

## **10. The Windham Elementary School District (NMED)**

The Windham Elementary School District is the sole NMED in the West River MUUSD, located in the Windham Central SU. The MUUSD assumes full responsibility on July 1, 2019 to provide for the PreK-12 education of students residing in Brookline, Jamaica, Newfane, and Townshend, and for the grade 7-12 education of students residing in Windham. The Windham District remains an independent town district organized to provide for the PreK-6 education of its resident students.

The Windham District has a K-6 ADM of 15 student in FY 2018. The MUUSD has a K-12/7-12 ADM of 452.91 in the same fiscal year. The SU, which comprises five districts (the Windham Elementary District, the MUUSD, the River Valleys USD, the Marlboro School District, and the Stratton School District), has a total ADM of 868.76.

The Windham District's K-6 student population has fluctuated over the last five fiscal years: 14, 20, 16.87, 14, and 15 in FY 2014 through FY 2018, respectively. Due to small enrollment numbers, these fluctuations have a significant impact on the tax rate from year to year. A larger student base provides tax rate stability, all else being constant.

The Section 9 Proposal, however, estimates that the ADM will more than double in the next five years when it expects that an additional 18-20 children will enroll.

The Windham voters rejected creation of a UUSD on March 7, 2017 as follows:

66 Yes

74 No

1 Blank or Spoiled

### **District's Sec. 9 Analysis and Proposal**

The Windham District wishes to remain a single-town elementary school district in the Windham Central SU. A survey conducted after the voters rejected the merger proposal indicated that the community's top three priorities are: maintaining high quality, preserving local decision-making; and continuing to educate the youngest students close to home.

The Section. 9 Proposal explains that the many, varied educational opportunities offered at the schools are due to "close relationship between local School Board members and the larger community, emphasizing the need to maintain our local School Board." Many, such as after-school ukulele lessons, are provided free of charge. In addition, "in, at least, two instances, children have come to WES with a special ed. label and graduated without it." There is little staff turnover at the school and there has not been a vacancy on the school board for "35 years or so." It is impossible to report SBAC or other assessment data due to the Windham District's small size, although the district reports that aggregated data show a need for improvement in math and a high level of proficiency in language arts. The Windham District did not identify any benefits in a unified governance system.

Much of the Proposal and the April 10 Conversation focused on reasons that the community should be considered geographically isolated, including explanations regarding altitude, steep roads, and often perilous driving conditions. The Windham District believes it is likely that full PreK-12 membership in the unified district could require parents and other Windham



community members to travel great distances on bad roads in inclement weather to participate in school board meetings, describing that possibility as “not being convenient for folks.” The district is also concerned that the Windham community’s voice would be lost on a large, unified board.

While the Windham District focuses in part on these types of participation concerns, the district seems to be particularly fearful that the Windham Elementary School will close if the district assumes full membership in the unified district. At the Conversation, the statement was made that the Windham Elementary School has a “target on [its] back.” The Windham District believes that the MUUSD is considering closing a school and, although the general, anecdotal understanding is that the discussions are focused on another elementary school in the SU, the Windham District is concerned that unification will lead to closure of the Windham Elementary School instead or as well.

For more details, see the district’s Snapshot at Appendix F; common data points at Appendix G; and the Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#). The Windham District provided paper copies of its Section 9 Proposal for the Secretary and all State Board Members. As it did not submit an electronic copy of proposal, contact the district to review a paper copy.

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

In the Section 9 Proposal and during the Conversation, the Windham Board noted that the community voted against the proposal to join the unified district and that the majority of respondents to a post-vote survey indicated a strong preference for preserving the current



local decision-making structure. Merger is not “impossible” or “impracticable” because a community wishes to maintain its current governance structure and decision-making authority. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into the UUSD structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable if a school board endeavors to implement the will of the community.<sup>51</sup> In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

In addition to survey results indicating a community preference for local decision-making, the Windham District’s Section 9 Proposal and Conversation also expressed concern that the local voice of such a small town would be lost on a large unified board. Inherent in the desire to maintain local decision-making authority and fear of losing “voice” is the premise that a small, local board is the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from local decision-making and a school-centric budget, which is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that a UUSD with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency, accountability, and fiscal efficiency, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger. In addition, given the extremely small size of the Windham District, it is interesting to note that even under the predominantly Town-by-Town Proportionality Model adopted by the West River MUUSD, the number of seats allocated to each town are not remarkably disparate (two towns with 1 member each, two towns with 2 members each, one town with 3 members, plus 2 totally at large members).

Much of the Windham District’s argument against full PreK-12 merger is based upon its assertion of geographic isolation due to both distance and treacherous driving conditions. The Windham District worries that these factors will prevent citizens from attending unified board meetings and parents from participating in district-wide events located in other school buildings. The geographic concerns also factor heavily in connection with the community’s fear that full PreK-12 membership will result in closure of the Windham Elementary School.

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<sup>51</sup> It is worth noting, however, that there were very few votes separating the favorable and unfavorable ballots. In addition, although the statement was made here and in other districts that anecdotal post-vote conversations revealed that individuals who had approved the merger proposal did so because they hadn’t understood the consequences of their vote, there is nothing to suggest that votes of disapproval weren’t similarly based upon misunderstanding or misinformation.

Specifically, the Windham District maintains that it would not be safe to transport small children to other locations if the UUSD were to close its school.

Although the Legislature indicated that, in enacting Act 46, it was not its intention to close small schools, neither did it premise merger on keeping every school within the new district open beyond the first four years. Nevertheless, there are many reasons that closure of the Windham Elementary School seems unlikely at this point. If travel between the Windham Elementary School and the nearest elementary school is as treacherous as the Windham District contends, then it is difficult to imagine that a unified board would consider closing the school.<sup>52</sup> Alternatively, if the drive is not deemed to be too treacherous – or is not treacherous for some months of the year – then, given the district’s conviction that its school offers extraordinary opportunities not available elsewhere, it seems likely that Windham will become a destination for other elementary school children, either through the unified district’s full elementary school choice program or on a field-trip or other point-in-time basis.

It is also significant that the MUUSD’s voter-approved articles of agreement contain some of the most stringent provisions regarding building closure in the State, permitting closure of a school at any point in the future only if approved by the voters of the town in which the school is located. Because the original merger warning explicitly referenced this provision, the school closure protection language can be amended only by a favorable vote of the entire electorate and cannot be amended or repealed by vote of the unified board. In addition, the sense that Windham is being “targeted” for school closure seems to emanate primarily from a comment made nearly a decade ago by then-Commissioner Vilaseca. Finally, reported discussions regarding potential school closure have been focused on a building other than the one in Windham.

The Windham District also claims that the NewBrook Elementary School’s capital debt far exceeds the Windham District’s outstanding debt and is another barrier to merger. Basing a decision on debt levels is short-sighted, and – given the Legislature’s identification of a UUSD as the best means to sustainably achieve the Act 46 goals – should not be the sole or primary reason to prevent merger where it is otherwise the best alternative. Although assumption of a portion of one district’s capital debt may result in tax increases under the districts’ modeling, the increases may be mitigated by savings that could result from approaching the possibilities of merger in a creative manner. In addition, today’s district with little or no debt will tomorrow become the district that needs a new roof. In other words, long-term decision making should not be based on point-in-time circumstances. Finally, capital debt does not last forever, it is eventually paid off. Districts need to take the long view when determining

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<sup>52</sup> Although there is no need for the Secretary to dispute the contention of geographic isolation and treacherous driving conditions in order to reach her conclusions, it should be noted that the community regularly drive out of Windham in order to access employment, shopping, health care, and other services; parents currently transport their young children to Weston, Londonderry, and Newfane as there are currently no programs in Windham; and students in grades 7-12 travel by bus to attend school in Townshend.

what will best serve their students, particularly in small districts with steadily declining populations, increasing budgets, or unstable tax rates.<sup>53</sup>

Student assessments cannot be used to gauge quality in this tiny district. Not only is it impossible to report results, must less disaggregate them by poverty or special needs, but it is also impossible to rely upon any generalized statistics when a statement that, *e.g.*, 66% of the 3rd grade students meet State standards translates into 2 of the 3 students in that grade over a three-year period performed at that level.

The Windham District contends that PreK-4 merger would provide no benefits to Windham students and taxpayers, and might even threaten programmatic offerings at the school or raise taxes. Even assuming that this contention is true, it cannot be said that the merger would have no benefit for the region. But for the existence of the Windham Elementary District, there would be no need for the complex accounting mechanisms necessary to support an interrelated PreK-12/7-12 district and a PreK-6 district. In addition, the school located in Windham could become one in which other students in the region enroll through intradistrict elementary school choice or with which other schools could more easily share point-in-time programming. The ability to access Windham's staff, unique programming, and other resources would be simplified, and the unified district's workforce might become even more stable by converting part-time staff to full-time employees. Thus, the addition of Windham as a full PreK-12 member of the unified district has the potential to benefit the students and taxpayers in the other member towns of the district.

It is also not clear that merger has no potential to benefit the students and taxpayers of Windham and improve the school's chances of continuing to operate and offer vibrant programming opportunities. The Windham District's K-6 ADM has fluctuated during the last five fiscal years, hovering primarily in the mid-teens except for a spike to 20 students in FY 2015. Even if an additional 18-20 students enroll in the coming years as the Windham District projects – growing from 15 students to a projected 35 students – the Windham District would operate the 4th smallest K-6 school in the State (it is currently the smallest) and would be the 8<sup>th</sup> smallest district<sup>54</sup> in the state (it is currently the 2<sup>nd</sup> smallest). Given the State Board's current draft metrics for small school grant eligibility, it is questionable whether the district will continue to receive the ~\$40,600 annually in statewide education funds to support continuation of its programs. Larger governance structures have been shown to provide the flexibility needed to reduce budget and tax increases, even out tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded.

No facts have been presented that support a conclusion that merger is not “possible” or “practicable” in this instance, nor can the Agency identify any other facts that would do so.

In addition, the Windham Board's argument that maintaining its current structure is the “best” means for Windham to create a sustainable structure capable of meeting the Act 46

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<sup>53</sup> The Windham District also cites the Leland and Gray Union High School District's existing debt, but the Windham District already shares responsibility for its repayment because it is a member of the union high school district.

<sup>54</sup> Including operating districts and tuitioning districts and all grade configurations, K-12.

Goals is not convincing enough to overturn the Legislature’s presumption that a UUSD is the “preferred” means of doing so.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner -- even in regions where, as here, it will be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.”

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for both the district individually and for the region – is for the State Board of Education to merge the Windham Elementary School District and the West River Modified Unified Union School District into a single UUSD by requesting the MUUSD to accept the Windham District as a full PreK-12 member.*

The Secretary trusts that the community’s concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

### c. USDs with Un-Like Members

There are several existing union school districts in the State that, unlike the five discussed in Part VI(A)(a) above, have at least one member district that has an operating/tuitioning pattern that differs from that of the other member(s).

Under current statute, only the voters of a school district can choose whether to educate resident students by operating a school or paying tuition, and only the voters can decide to change the current pattern. As a result – for purposes of this Part VI regarding governance merger of school districts – the State Board does not have the authority to require a union school district and its un-like member districts to merge into a single unified union school district.<sup>55</sup>

Where it is impossible to create a “preferred structure,” the Legislature directs the State Board to include other structures in its statewide plan, “such as” multi-district SUs and UUSDs with smaller-than-optimal ADM numbers. Although not explicitly mentioned, the use of “such as” and the reference to multi-district SUs authorizes the State Board to merge the “like” member districts of the union school district into a union school district of their own if such a merger is necessary to create a sustainable structure capable of meeting or exceeding the educational and fiscal goals of Act 46.

For example, if Union High School District A has five member elementary districts (Member Districts 1-4 that operate schools for PreK-6 and Member 5 that pays tuition for those grades), then the State Board has the authority to merge some or all of Member Districts 1-4 into a union elementary school district. If the State Board were to require such a merger, then six districts would be decreased to three and the new union elementary school district could operate all four elementary schools. The new union elementary school district would be able to offer elementary school choice among the schools, could share staff and other resources among the school buildings, might obtain relief from fluctuating tax rates due to a larger total ADM, and could take advantage of other opportunities inherent in the more flexible structure.

As mentioned above in the introduction to the NMEDs in Part VI(A)(b), it is also possible that the State Board has one other option. Although the Legislature did not formally acknowledge the existence of MUUSDs until granting them eligibility for tax rate reductions and other assistance in its 2012 legislation, union school districts have existed for decades that are structurally similar to an MUUSD – among them the North Country Union High School District, one of the union school districts under consideration in this Part VI(A)(c). It is not clear, however, whether the State Board has independent authority to create a school district with a “modified” structure in its statewide plan by, using the example from above, (1) merging District A and District 1-4 into a Modified Unified Union School District that provided for the PreK-12 education of students in Towns 1-4 and the 7-12 education of the students in Town 5 and (2) maintaining District 5 as a stand-alone elementary school district that paid tuition for its students in grades PreK-6.

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<sup>55</sup> Note, however, that nothing precludes the State Board from adjusting SU boundaries around these districts, as long as the union school district and all of its member districts are within the same SU. See Part VII for a discussion of SU boundaries.

Both a union elementary school district and a modified unified union elementary school district retain an overarching SU structure and are both more complex than a UUSD, especially one that is large enough to serve as its own single-district SU. Nevertheless, the Act 46 requires the State Board to merge districts to the extent necessary, possible, and practicable to create more sustainable structures. Formation of a UESD or MUUSD may be the most sustainable structure possible in some regions of the state, and one that could potentially lead to creation of a UUSD at some point in the future.



**11. The Bellows Falls Union High School District and its Four Member Districts (Athens, Grafton, Rockingham, and Westminster)**

The Windham Northeast SU consists of the Bellows Fall Union High School District and its four member elementary districts: Athens, Grafton, and Westminster (which are organized to operate K-6 and pay tuition for grades 7-8); and Rockingham (which is organized to operate K-8). The Athens and Grafton School Districts have entered into a contract to operate a K-6 school jointly for their resident elementary students. The joint contract school is governed by a separate board composed of the members of both town school boards. Westminster operates two elementary schools: one offering K-4 and the other offering K-6. Rockingham operates two K-4 schools and one 5-8 school for its resident students.

The K-12 ADM in FY 2018 is as follows:

Windham Northeast SU – 1,151.29			
	<u>K-6 (operate)</u>	<u>7-8 (o/t)</u>	<u>9-12 (union; operate)</u>
Athens (K-6 joint)	36.90	13 (tuition)	11
Grafton (K-6 joint)	36.15	15 (tuition)	31
Rockingham	373.69	96 (operate)	231.69
Westminster	183.05	49.2 (tuition)	<u>74.66</u>
	<i>[total in Bellows Falls Union</i>		<i>348.35]</i>

Data reflect the following<sup>56</sup>:

- The Athens District’s K-6 ADM increased steadily between FY 2014 and FY 2017, and then dropped 23% in FY 2018 to return to FY 2014 levels.
- The Grafton District’s K-6 ADM remained fairly constant FY 2014-FY 2017, before declining by 18% in FY 2018.
- The Rockingham District’s K-6 ADM declined by 5% between FY 2014 and FY 2015 and another 2.8% in FY 2017, before rising 3% in FY 2018 to reach FY 2015/FY 2016 levels.
- The Westminster District’s K-6 ADM has shown no discernable trend in the last five years, but has instead fluctuated FY 2014 – FY 2018, currently resting at 2.7% higher than in FY 2014.
- The 9-12 ADM of the Bellows Falls Union High School District declined 5.4% between FY 2014 and FY 2018.

The Athens and Grafton school districts jointly operate a school for the elementary grades and separately pay tuition for their 7<sup>th</sup> and 8<sup>th</sup> graders. During the Conversation, the Athens and Grafton representatives stated they had formed a committee to study a union school district that would operate grades K-6 and tuition grades 7 and 8.

Athens and Grafton tuition the vast majority of their 7<sup>th</sup> and 8<sup>th</sup> grade students to surrounding public school districts, including Bellow Falls Middle School in Rockingham. Westminster tuitions 60% of its 7<sup>th</sup> and 8<sup>th</sup> grade students to surrounding public school districts, with 36 out of 39 students attending Bellow Falls Middle School in Rockingham in FY2017.

<sup>56</sup> This discussion is reviewing K-6 ADM, rather than K-8, both because these are the grades that all four elementary districts operate and also because the three districts that pay tuition for grades 7-8 have no ability to control their budgets for those grades.

The four elementary district boards formed a § 706 study committee and presented the committee's report and proposed articles of agreement to the voters on March 7, 2017. The voters did not approve the proposal, which would have required Athens, Grafton, and Westminster to stop tuitioning students in grades 7-8.

Athens – 69 Yes / 14 No

Grafton – 81 Yes / 156 No / 12 Blank or Spoiled

Rockingham – 283 Yes / 191 No / 46 Blank or Spoiled

Westminster – 155 Yes / 436 No / 15 Blank or Spoiled

### *Districts' Sec. 9 Analysis and Proposal*

The Windham Northeast SU boards submitted a joint Section 9 Proposal, recommending that the State Board retain the districts' current independent governance structures and SU boundaries.

The Section 9 Proposal states that students throughout the SU are at or above State SBAC averages in "33 of 41 benchmarks, a marked improvement over the prior year where 24 of the 41 were attained." In addition, each district has adopted a continuous improvement plan and there is SU-wide professional development supporting implementation of a standards-based curriculum and instructional programs in math and writing, budgeted to continue in FY 2019. Going forward, the school boards "will create an Out-of-School Program Task Force to consider the viability of establishing equitable before and after school programs, and summer programs."

The Proposal points out that "WNESU outperforms State averages in the area of student to staff ratios, evidence that the current governance structure is achieving economies by staffing its schools wisely." The districts are instituting in-house food service in FY 2019 in all schools and already engage in "bulk purchasing in a number of areas" and some sharing of staff. The districts believe that additional staff sharing opportunities "may emerge in the future, particularly in the areas of data management, art, music, PE, and after-school programs," and they intend to pursue additional opportunities to achieve economies of scale. Boards will use the "'Goal-Setting Activities/Actions Checklist' to improve collaboration and the sharing of goals."

The WNESU board has committed to a full review of the recommendations included in the Integrated Field Review Report issued in December 2017.

The Athens and Grafton Districts, which currently have a contractual arrangement to operate an elementary school jointly, are exploring the potential creation of a union elementary school district. The joint committee that prepared Section 9 Proposal is not making a recommendation on the merits of a potential merger.

The Proposal states, however, that the merger of Westminster with either Athens or Grafton or with a merged Athens-Grafton District is "not feasible or desirable" for several reasons: Travel is geographically challenging between schools with a commute of "at least 25 minutes on curvy secondary roads in good weather." In addition, there are differences in debt and tax rates. Finally, the Proposal notes that the towns voted overwhelmingly against merger. The Westminster School Board adopted goals based on follow-up discussions with voters, e.g., the

importance of town meetings, 7-8 grade tuitioning, and community connections. “Taken together these goals recognize the relationship between healthy communities, healthy democratic institutions, and well-educated children.”

For more details, see the districts’ Snapshot at Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#); and the Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

## Secretary’s Discussion and Proposal

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., **such as** a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

As discussed more fully in the introduction to this Part VI(A)(c), the State Board does not have the authority to require the Bellows Falls Union High School District and its four member elementary school districts to merge into a single unified union school district because three of the member districts pay tuition for grades 7-8 and the fourth member operates a school for those grades. If the voters of the four districts are unwilling to adopt the same method to educate students from all four towns in those two grades (either by paying tuition for students from all four towns for grades 7-8 or by enrolling all in one or more publicly operated middle schools), then the Legislature has not granted the State Board authority to require such a change.

The State Board could, however, require the three “like” elementary school districts (Athens, Grafton, and Westminster) to merge into a union elementary district.

The Section 9 Proposal alleges that differing levels of capital debt are a barrier to merger of Athens, Grafton, and Westminster. Basing a decision on debt levels is short-sighted,

and – given the Legislature’s identification of a UUSD as the best means to sustainably achieve the Act 46 goals – should not be the sole or primary reason to prevent merger where it is otherwise the best alternative. Although assumption of a portion of one district’s capital debt may result in tax increases under the districts’ modeling, the increases may be mitigated by savings that could result from approaching the possibilities of merger in a creative manner. In addition, today’s district with little or no debt will tomorrow become the district that needs a new roof. In other words, long-term decision making should not be based on point-in-time circumstances. Finally, capital debt does not last forever, it is eventually paid off. Districts need to take the long view when determining what will best serve their students, particularly in small districts with steadily declining populations, increasing budgets, or unstable tax rates.

The Section 9 Proposal asserts that differing current tax rates pose a barrier to merger because it would negatively impact one or more of the potentially merging districts. Even assuming the accuracy of the assertion, the Legislature requires the State Board to have a regional focus as it merges districts where necessary to create sustainable structures. The Athens and Grafton Districts had fluctuating or steady ADM numbers in FY 2014 – FY 2017, before the ADM declined precipitously in both districts in FY 2018. Both districts are far smaller than the Westminster District. Experience throughout the State demonstrates that decreasing student population in a small district is not sustainable and ultimately leads to a downward spiral of increasing tax rates, reduced programming, and frequent staff turnover (which the Section 9 Proposal states is already an issue). Larger governance structures have been shown to provide the flexibility needed to mitigate annual budget and tax increases, moderate tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded. Furthermore, a contention that unification will raise tax rates for one or more groups of taxpayers cannot be the sole reason to prevent merger, particularly where there is no evidence that the calculation resulting in the projected increase accounted for the potential savings that can be realized by the creative and efficient use of the unified district’s resources and flexibility.

The Section 9 Proposal states that merger among the three “like” districts is neither “feasible nor desirable” because the voters did not approve the merger proposal. First, it is important to note that, if approved, the merger proposal would have resulted in a unified structure that operated grades 7-8. Therefore a negative vote could as easily have been a vote in favor of continuing to pay tuition for those grades as it was a rejection of the concept of merger itself. More importantly, as discussed in more detail above, regarding many of the previous proposals, community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory

purpose underlying the State Board's existence, that means the State Board must focus on what is best for the education of the State's children.

The Section 9 Proposal states that goals adopted in connection with post-vote discussions with voters identified, among other things, the importance of town meetings to ensure "healthy communities, healthy democratic institutions, and well-educated children." Inherent in the desire to maintain decision-making at the local board level and approve district budgets at Town Meeting is the premise that they are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget, which often is amended and voted on "from the floor," to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature's presumption that the "preferred structure" with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger. In addition, it is important to note that, other than the initial vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions "from the floor."

Although it appears that the flexibility created by merging all five districts within the Windham Northeast SU is the best way to achieve a sustainable structure in the region – and would be particularly beneficial to the Athens and Grafton Districts – the local voters have chosen not to change their structures in a way that would enable this to occur.

A merger of the Athens, Grafton, and Westminster Elementary Districts would be "possible" and "practicable," simplify the existing structures by replacing four boards with one, and facilitate resource sharing and elementary school choice among the three schools. Given the small size of Athens and Grafton, combining the ADMs of the Athens, Grafton, and Westminster Elementary Districts would likely provide some relief from tax rate fluctuations for Athens and Grafton but have little impact on Westminster.

The Windham Northeast Section 9 Proposal states that Athens and Grafton School Districts are exploring the possibility of merger. If approved, the voters would replace two districts and three boards with one of each. Although it may make sense to simplify the current multilayered structure so it truly can operate as a single unit, given the very small sizes of both districts, it will be interesting to consider whether there are any other benefits to creation of the unified district. This following decision was ultimately made with the expectation that Athens and Grafton will continue to pursue creation of a union elementary school district. All three districts are strongly encouraged to explore the opportunities of a three-town union elementary district with Westminster, as being the entity most likely to be sustainable in the region if none of the Windham Northeast districts is willing to change its operating/tuitioning structure for grades 7-8.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board merge the Athens, Grafton, and Westminster Districts in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of these districts, nothing precludes the Board from redrawing SU boundaries in a way that causes all of the Windham Northeast districts to become a member of a larger SU.



**12. The Hazen Union High School District AND the Lakeview Union Elementary School District and All Member Districts (Greensboro; Hardwick; Stannard; Woodbury)**

The Orleans Southwest SU includes two existing union school districts: the Hazen Union High School District and the Lakeview Union Elementary School District. The Hardwick and Woodbury Elementary Districts, both of which operate elementary schools, are members of Hazen Union for grades 7-12. The third member of Hazen Union for grades 7-12, Greensboro, is also a member of the Lakeview Union Elementary School District, for PreK-6. Stannard, the other member of Lakeview Union for PreK-6, pays tuition for its students in grades 7-12.

In addition to these six intertwined districts, the Orleans Southwest SU includes the Craftsbury School District (PreK-12 operating) and the Wolcott School District (PreK-6 operating; 7-12 tuitioning).

The K-12 ADM for FY 2018 is as follows:

Orleans Southwest SU – 1,003.18  
Hardwick (K-6 o) – 217.84  
Stannard (7-12 t) – 12.25  
Woodbury (K-6 o) – 48.74  
Hazen Union (7-12 o) – 285.21  
    [Greensboro 50.03]  
    [Hardwick 199.77]  
    [Woodbury 35.41]  
Lakeview Union (K-6 o) – 61  
    [Greensboro 43]  
    [Stannard 18]  
Craftsbury (K-12 o) – 136.25  
Wolcott (K-6 o / 7-12 t) – 241.89

The districts report the following *enrollment* trends:

- SU-wide: “mild decline in enrollments in the last 10 years of about 5%”
- Hazen UHSD “has been fairly steady in the last 10 years, but with a roughly 10% drop in the last 3 years”
- Craftsbury increased about 20% in the last 4 years (not including PreK)
- Hardwick “mostly steady enrollments, and is currently about 5% down from its 10 year peak”
- Lakeview “steady the last 7 years and is up about 15% from 10 years ago”
- Woodbury has same ADM as 10 years ago, and up 40% from lowest point

AOE data reveal the same trends. The decline in student counts and increases in expenditures have had a significant impact on tax rates in all districts but Craftsbury.

**Districts’ Sec. 9 Analysis and Proposal**

The Orleans Southwest districts submitted a joint Section 9 Proposal. Although the two union school districts’ inter-relationship affects the structural ability of the Craftsbury and Wolcott

Districts to merge with any other district in the SU, the following discussion focuses on the two union districts and their members. The Craftsbury and Wolcott Districts are discussed in Part VI(C) below, in subsections (a) and (b) respectively.

The districts propose to remain as one union elementary school district; one union middle/high school district; and six single-town districts (two PreK-12; two PreK-6; one 7-12; one “ghost”<sup>57</sup>) all within same SU.

During their Conversation, the districts stated that as a result of Act 46 conversations, an increase in the number of children who have experienced trauma, and state laws regarding universal access to prekindergarten, they are now working collaboratively in ways they have not done in the past. “Everything that you would expect to happen under Act 46 is happening or is beginning to happen.”

In 2017, the SU Leadership Team developed a new strategic plan and identified areas for improving quality, student performance, and equity. Possibilities for future action include, *e.g.*, having one lead, SU-level coordinator for Library/Media services with team of support staff at each school; centralizing AP classes for Hazen Union and Craftsbury students and offering them on a yearly rotation between the two schools; offering language classes at all elementary schools on a quarterly or semester basis and share the language teachers among schools as they currently do for music, art, and PE.

The districts plan to: “conduct a ‘needs assessment’ for each school focused on improved implementation of curriculum, formative assessments, embedded technology, Professional Learning Communities (PLCs) and career pathways;” work to develop “proficiency-based instructional and assessment practices;” and develop “staff expertise in modelling and teaching culturally competent and social emotional behaviors” During the Conversation, the districts indicated they are meeting with local health and mental health professionals to determine ways to intervene earlier with families. The districts can foresee opportunities for centralization in the future, such as in food services and facilities management.

For more details, see the districts’ Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

## **Secretary’s Discussion and Proposal**

With one exception, the two union school districts and their member districts are intertwined in a manner that precludes merger of any district in the Orleans Southwest with another OSW district unless the voters in at least one district vote to change the district’s operating/tuitioning structure.

Although it would be structurally possible for the State Board to require the Hardwick and Woodbury Schools Districts to merge to create a union elementary school district, it is not clear

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<sup>57</sup> Greensboro is a member of two union school districts, one for elementary grades and the other for secondary grades. When a unified union school district (PreK-12) is formed, the underlying town districts automatically dissolve by statute. The same is not true for creation of a union elementary or union high school district, so the underlying Greensboro School District still exists, regardless of whether it is active.

whether there is sufficient educational or fiscal benefit to do so while the other, intertwined relationships continue to exist.

The Secretary believes that the Orleans Southwest SU districts would be better able to meet or exceed the educational and fiscal goals of opportunity, equity, and efficiency – and the districts’ small schools would more likely become or remain viable – if they had access to the flexibility inherent in a larger, unified structure.

Unification can occur in this SU, however, only if the voters of one or more districts are willing to compromise regarding the grades for which they operate schools and those for which they pay tuition. Absent the voters’ willingness to do so, the Hazen Union and Lakeview Union Districts and their member districts appear to be moving forward in a collaborative manner to the greatest extent that their current structure permits.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board merge the Hardwick Elementary District and the Woodbury Elementary District in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of these districts, nothing precludes the Board from redrawing SU boundaries in a way that causes the districts that are the subject of this #12 to become members of a different SU.

### **13. The Lake Region Union High School District and its Seven Member Districts (Albany; Barton; Brownington; Glover; Irasburg; Orleans; Westmore)**

Although the deadlines have expired for most of the “voluntary mergers” contemplated by Act 46 and its incorporated laws, it is still possible for districts to explore governance unification during the period leading to the State Board’s issuance of the final statewide plan. For example, districts can consider creating:

- A unified union school district that is eligible for tax rate reductions and other transitional assistance pursuant to Act 46, Sec. 7
- A unified union school district created pursuant to 16 V.S.A. chapter 11 that is not eligible for tax rate reductions or other transitional assistance.
- An interstate school district created pursuant to state and federal law.

The Orleans Central SU consists of seven town school districts organized to provide for the education of resident students in PreK-8, six of which operate a school for K-8 and one that pays tuition for K-8. The SU also includes one union high school district, the Lakeview Region UHSD, of which all town seven districts are members. The districts jointly operate a full day, prekindergarten program located in two school buildings that are available five days per week.

A study committee of the Orleans Central SU districts developed a unification proposal approved by the State Board of Education on April 19, 2016. On June 7, 2016, the voters of all but one district voted not to approve the proposal. Because the proposal identified all districts as “necessary,” the districts did not merge into a new unified union school district and the study committee dissolved.

In December 2017 and January 2018, the districts submitted letters signed by the chair of each school board informing the Secretary and State Board that all boards voted to form a new § 706 committee “to pursue a preferred structure in regards to Act 46 and Act 49.” The districts complied with the three requirements of Act 46, Sec. 9 by submitting these letters, by the work of the earlier study committee, and by the work expected of the new study committee. During the Section 10 Conversation on February 23, 2018, the boards’ representatives indicated a belief that the rapid timeframe of the earlier proposal, together with a vote warned for July, contributed to very low voter turnout<sup>58</sup> and the proposal’s ultimate failure. As a result, the newly formed committee purposefully developed an extended timeline with many months available for community meetings and a vote on the general election day in November. The study committee sought community feedback to the revised proposal and articles during the Spring of 2018 and will present a new proposal and articles to the State Board at its June 8, 2018 meeting. The committee intends to hold additional community meetings throughout the summer and autumn, and plans to put the new proposal before the voters on November 6, 2018.

If the voters do not approve creation of a unified union school district, it would be possible to merge the six elementary school districts that operate schools into a single union elementary school district with a combined ADM, in FY 2018 numbers, of 647 for K-8. This merger would reduce the SU’s current eight districts, and their respective boards, to three districts: one union

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<sup>58</sup> Glover (37 yes / 74 no) was the only district in which more than 100 votes were cast.

high school district that operates a school (330 ADM; grades 9-12); one union elementary school district that operates multiple schools (647 ADM; K-8); and one PreK-8 district that pays tuition for its resident students (26 ADM; K-8).

For more details, see the districts' Snapshot at Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#); and the first Study Committee's Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#). The second Study Committee's Merger Report and proposed Articles of Agreement will be available through the State Board's website, in connection with its June 8 agenda, soon.

### **Secretary's Discussion and Proposal**

The timing of the currently-available voluntary merger options complicates the ability of the Secretary to issue the proposed plan by June 1, 2018 and – more significantly – the State Board to issue its final statewide plan by November 30, 2018. Nevertheless, the Legislature clearly contemplated that districts would continue to have the opportunity to pursue governance consolidation during the period in which the statewide plan is being developed (e.g., the Legislature enacted both the Sec. 7 merger possibilities and the Sec. 10 statewide plan deadline in the same piece of legislation), and that new unified union school districts created during this period would be eligible for tax rate reductions and other transitional assistance if they met certain criteria.

The fact that both communities voted to establish a new § 706 Study Committee represents a genuine effort toward reaching a compromise and there appears to be a strong possibility that the districts will unify

The Secretary's ability to comment is limited because it is impossible to predict whether the State Board will approve the study committee's final proposal and, if so, whether the voters of all "necessary" districts will approve unification. By the time the State Board is required to issue its final statewide plan, the Board will have the information it needs to make its decisions. If the State Board issues its plan before the November 30 deadline and before the scheduled merger vote, then it may want to reserve the opportunity to amend the statewide plan before the legal deadline for purposes of including any decision it might make regarding these districts.

*Accordingly, in light of this development and out of respect for the Legislature's decision to provide the districts with this opportunity to merge voluntarily and obtain tax rate reductions, the Secretary makes no recommendation regarding the governance structure of the Lake Region Union High School District and the Albany, Barton, Brownington, Glover, Irasburg, Orleans, and Westmore Districts at this time so that the Agency does not insert itself into community discussions and potential votes of the electorate. The Secretary anticipates that the State Board will review and may potentially address the governance structure of these districts in its final statewide plan.*

**14. The Mount Anthony Union High School District and its Five Member Districts (Bennington; North Bennington; Pownal, Shaftsbury; Woodford)**

The Southwest Vermont SU includes the Mount Anthony Union High School District and its five member districts: the Bennington, Pownal, Shaftsbury, and Woodford Elementary School District, each of which operates a school; and the North Bennington ID, which pays tuition for PreK-6. North Bennington ID includes Village of N Bennington and “a section of the Town of Shaftsbury commonly referred to as the Shaftsbury ID District. The unorganized town of Glastenbury is assigned to the SU for administrative services in those years in which it has resident school-aged children. The Bennington 6th grade students attend class at the Mt. Anthony Union Middle School which is part of the Mt. Anthony Union School District.

The K-12 ADM for FY 2018 is as follows:

Southwest Vermont SU = 2,803		
	<u>K-6</u>	<u>7-12 (union)</u>
Bennington	903.43	822.90
N Bennington	135 (tuition)	88.27
Pownal	219.65	08.70
Shaftsbury	205	186.7
Woodford	21.35	22
	<i>[MAUHSD total (7-12)1,319]</i>	

Over the last five years, data reflect that the K-6 ADM for the Bennington District has fluctuated somewhat, but remained relatively constant. The ADM for North Bennington, Pownal, and Shaftsbury remained constant until FY 2018 when it rose 9.5% (11.7 more students) for North Bennington and dipped 10.5% in Pownal (25.8 fewer students) and 15% in Shaftsbury (37 fewer students). Woodford’s ADM had the largest percentage fluctuations, rising 42% (7.35 students) between FY 2014 and FY 2015, then declining by 20% (5 students) between FY 2016 and FY 2017, and climbing 6.7% (1.35 students) in FY 2018 – for a net five-year gain of 3.7 students, or 20%. Mount Anthony’s ADM began to drop in FY 2016, resulting in a net five-year decline of 109 students, or 7% of its ADM from FY 2014 through FY 2018.

The five elementary school districts formed a study committee pursuant to 16 V.S.A. § 706 in the autumn of 2015 on their own behalf and representing the Mount Anthony Union High School District. The study committee disbanded in August 2016, in part to allow North Bennington to leave the study process and pursue other options, including withdrawal from the Union High School District pursuant to the process outlined in 16 V.S.A. § 721a. To date, there has been no movement on the part of North Bennington to withdraw from the union high school district. The school districts continued to have informal conversations. In June 2017, the Bennington, Pownal, Shaftsbury, and Woodford school boards appointed members to a new study committee. The study committee proposed creation of a unified district, providing the alternative of a modified unified union school district if the voters in at least three of the districts approved unification. The State Board approved the proposed merger plan at its September 2017 meeting and the boards of the four districts presented the proposal to their voters on November 7, 2017. The Board of the North Bennington ID, which had been named as an advisable party, chose not to present the question to its voters. The results of the warned votes were as follows:



- Bennington – 965 Yes / 338 No
- Pownal – 210 Yes / 214 No (no reconsideration vote)
- Shaftsbury – 322 Yes / 176 No
- Woodford – 36 Yes / 38 No (38 Yes / 58 No on reconsideration)
- (North Bennington – school board did not warn the vote)

## **Districts’ Sec. 9 Analysis and Proposal**

Each of the five elementary districts submitted its Section 9 Proposal independently. The Bennington, Shaftsbury, and Woodford School Boards each propose the same thing, however, and chose to participate in a joint Conversation. The proposals are discussed in three groups below: Bennington-Shaftsbury-Woodford; North Bennington; and Pownal.

For more details, see the districts’ Snapshots at Appendix F; common data points at Appendix G; links to the Section 9 Proposals at the [School Governance / Sec. 9 Proposals webpage](#); and the Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### ***Bennington, Shaftsbury, and Woodford School Districts***

The Bennington, Shaftsbury, and Woodford Boards propose that the State Board require the Mount Anthony Union School District and its member elementary districts to form a unified union school district as contemplated by the study committee’s proposal presented to the voters in November.

At the districts’ joint Conversation, the Board representatives discussed Woodford’s very small size – noting both that it can serve as an incubator for programs before expanding them to the other elementary schools and that the school’s future would be more stable as part of a larger structure. The representatives speculated that the merger vote failed both times (first by two votes and then, on reconsideration, by four) because Woodford voters feared that taxes would rise if the district unified, particularly due to the dilution of federal forest impact aid. It was noted that the Woodford taxpayers would experience less dilution if the State Board required creation of a union elementary school district than if the districts formed a UUSD.

The representatives stated because a portion of the Town of Shaftsbury lies within the North Bennington ID, some Shaftsbury residents were not allowed to vote on merger. They also indicated that the Shaftsbury school building had capacity to enroll the additional students if all Shaftsbury students were within the Shaftsbury School District, or if the voters of the North Bennington ID chose to become part of an operational district at some point in the future.

The boards of the three districts observed that it made sense to model a unified board’s structure on the Hybrid Model – a structure the union high school has used successfully for many years. The Bennington Board Members noted that their voters approved merger by a three-to-one margin, even though this hybrid model results in a smaller “voice” for Bennington residents on the unified board.

## **North Bennington Incorporated District**

In its Section 9 Proposal, the North Bennington School Board proposes for the district to withdraw from the Mount Anthony Union High School District and become a PreK-12 nonoperating district. It then proposes that the new PreK-12 district would join the Battenkill Valley SU as a third district: Arlington (PreK-12 operating); Sandgate (PreK-12 tuitioning); and North Bennington (PreK-12 tuitioning). In addition, it supports the Arlington District's original request for "a five-year extension as a newly configured SU."

The North Bennington Board Members explain the reasoning behind its Section 9 Proposal as follows:

[The plan to withdraw from the MAUHSD and become a single-town PreK-12 tuitioning district] is unique because it provides a sustainable way to give vast opportunities to our students and allows other districts to move forward to clean things up in the area.

If we were out of the [union high school district] and moved out of the SU then it would simplify matters for the other districts [in the Southwest VT SU].

One or two students currently enroll in the Arlington High School under the statewide public high school choice program. The North Bennington Board anticipates that if it became a PreK-12 tuitioning district, the majority of North Bennington students would continue to enroll in the Mount Anthony Union High School with a few enrolling in Arlington, but that the new structure would provide students with publicly funded tuition dollars that would allow students to enroll in independent schools as well (the district anticipates students would enroll in the Burr and Burton Academy).

The North Bennington Board has no current plans to warn a vote to initiate withdrawal from the Union High School. It believes that the other MAUHSD members will not consent to the withdrawal. Board members have spoken with their legislative representatives but do not believe that any are planning to pursue an exemption, similar to the one given to Vernon, which would permit North Bennington unilaterally to withdraw from the union district. The North Bennington Board is hopeful that the Agency or State Board is able to do something to "help clean things up."

## **Pownal School District**

The Pownal School Board's Section 9 Proposal urges the State Board to create a Modified Unified Union School District, with Pownal and North Bennington retaining their single-town elementary school district status (NMEDs). Federal forest impact aid has provided minimal assistance in lowering the tax rate and the School Board has managed ratios when necessary by, for example, combining two classes and operating with one fewer teacher.

Given the fact that the savings [expected in the original merger proposal] would be minimal, at best, [the Pownal Board] maintains that our current alternative structure works for the State of Vermont and the residents of our district.

During the April 5 Conversation, the Board Members acknowledged that another option would be to create a union elementary district by merging the four districts that operate elementary schools. The Members expressed concern that one board could adequately assume responsibility for the PreK-12 education of students living in several towns, both because elementary and secondary issues are distinct and because one board would not have sufficient time to address all issues, PreK-12. The Board Members appeared to appreciate that although merger is not their first choice, a union elementary school district would enable the elementary schools to have their own school board.

### **Secretary's Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the "preferred structure" for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to "include alternative governance structures ..., **such as** a supervisory union with member districts or a unified union school district with a smaller average daily membership." Nevertheless, the Legislature limits the State Board's authority to include SUs with multiple member districts in the statewide plan by declaring that the "State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

"(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

"(2) ensures transparency and accountability for the member districts and the public at large ..."

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

As discussed more fully in the introduction to this Part VI(A)(c), the State Board does not have the authority to require the Mount Anthony Union High School District and all five of its member elementary school districts to merge into a single unified union school district because four of the member districts operate elementary schools and the fifth member pays tuition PreK-6. If the voters of the five districts are unwilling to adopt the same method to educate students from all five towns (either by operating schools in which all elementary students enroll or by paying tuition for all elementary students), then the Legislature has not granted the State Board authority to require such a change.

The State Board could, however, require the four "like" elementary school districts (Bennington, Pownal, Shaftsbury, and Woodford) to merge into a union elementary district.

Before turning to that discussion, however, it is important to address several requests made by the districts in connection with their Section 9 Proposals.

First, the Bennington Board’s proposal explicitly asks the State Board to merge the districts in the manner proposed by the study committee and to grant the newly merged district the same tax rate reductions it would have received if the voters had approved creation of a UUSD/MUUSD in November. As stated above, the State Board has no authority to require a full PreK-12 merger of all districts in the Southwest VT SU. In addition, the Legislature has not authorized the State Board, the Agency, or any other entity or individual to grant tax rate reductions or other transitional assistance to the districts the State Board requires to merge in its statewide plan. It is therefore impossible for the State Board to grant the Bennington Board’s request for tax rate reductions, even if the Board requires merger of districts in this SU.<sup>59</sup>

Second, the North Bennington ID expresses a desire to become a PreK-12 tuitioning district. It has no plans to warn a vote on the issue under 16 V.S.A. § 721a, because it does not believe that other four elementary districts will approve withdrawal, nor has it pursued an exemption from the statute that would allow it to withdraw unilaterally. Instead, the Board expressed a hope that the State Board or the Agency would “help clean things up.” Many decades ago, the Legislature enacted a process by which a member district can initiate withdrawal from an existing union school district. In at least one instance, the Legislature provided a specific district with the unilateral authority to withdraw. The Legislature has never granted any authority to the State Board or the Secretary/Agency to effectuate a district’s withdrawal from a union school district through any other process. Therefore, there is nothing that the State Board or Agency can do to “help clean things up” in connection with North Bennington’s membership in the Mount Anthony Union High School District (*i.e.*, remove North Bennington from the union high school district).

Finally, the North Bennington Section 9 Proposal suggests that the district become a PreK-12 tuitioning district and that the State Board redraw SU boundaries so that the North Bennington District is a third member district of the Battenkill Valley SU. As stated above, the State Board and Agency has no authority to extract the North Bennington ID from its membership in the union high school district. Until the district effectuates the withdrawal, the State Board has no authority to cause the district to be a member of the Battenkill Valley SU. Structurally, nothing precludes redrawing SU boundaries so that the Arlington and Sandgate Districts were members of the Southwest VT SU, but that would not be responsive to the rationale underlying North Bennington’s Section 9 Proposal and is also not the subject of this Part VI regarding governance merger.

In accordance with the study committee’s report and proposed articles of agreement, the Secretary believes that the Southwest Vermont SU districts would be better able to meet or exceed the educational and fiscal goals of opportunity, equity, and efficiency – and the districts’ small schools would more likely become or remain viable – if they had access to the flexibility inherent in a larger, unified structure. Full PreK-12 unification can occur in this SU, however, only if the voters of one or more districts are willing to compromise regarding the grades for

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<sup>59</sup> Act 49 of 2017, however, authorizes the State to award transitional funds to exempt districts that – at the request of the State Board – agree to include a previously unmerged district as a new member of the UUSD.

which they operate schools and those for which they pay tuition. Absent the voters' willingness to do so, then the State Board has three potential options:

- leave the four "like" elementary district as four independent single-town districts
- merge the four "like" town elementary districts into a union elementary district
- potentially consider creation of a modified unified union school district

A merger of the Bennington, Pownal, Shaftsbury, and Woodford Elementary Districts into a union elementary school district is both "possible" and "practicable." It would simplify the existing structures by replacing four boards with one, and facilitate resource sharing and elementary school choice among the districts' schools. A union elementary school district of these four towns would be large enough to take advantage of increased scale and provide some relief from tax rate fluctuations. This merger would reduce the SU's current six districts, and their respective boards, to three districts: one union high school district that operates a school (1,319ADM; grades 7-12); one four-town union elementary school district that operates multiple schools (1,349 ADM; K-6); and one PreK-6 district that pays tuition for its resident students (135 ADM; K-6).

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature's determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner – even in regions where, as here, it will be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership."

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board to merge the governance structures of the Bennington Incorporated District, the Pownal Elementary District, the Shaftsbury Elementary District, and the Woodford Elementary District into a single union elementary school district that provides for the education of its PreK-6 students by operating multiple schools.*

Final note: More than one Section 9 Proposal requested that the State Board merge the districts as proposed in the study committee's report. If the Board wishes to explore creation of a MUUSD in this instance, then the following may be of some use in its deliberations.

The second Southwest Vermont SU Study Committee consisted of appointees of the four elementary districts that operate schools representing their own interests and, per statute, the interests of the Mount Anthony Union High School District. The study committee proposed creation of a UUSD, or alternatively a MUUSD, naming the nonoperating North Bennington ID as an "advisable" district as permitted by statute. The State Board approved the proposal to create a UUSD/MUUSD, finding both structures to be "in the best interests of the State, the students, and the school districts" pursuant to 16 V.S.A. § 706c(b). The voters of each of the four operating districts approved the proposal or very narrowly defeated it. As an "advisable" district, the North Bennington Board exercised its right not to put the question to its voters. The Boards of three districts ask the State Board to merge the districts as requested in the study committee's proposal and the fourth acknowledges that a union elementary school district might be the best way to meet the Act 46 goals in a sustainable manner. Although the Legislature did not formally acknowledge MUUSDs except in connection with the Phase Two

voluntary merger program enacted in 2012, the State Board has approved MUUSD-like union school districts in the past – for example, the North Country Union High School District, discussed next as proposal # 15.



**15. North Country Union High School District and its Member Districts (Brighton; Charleston; Derby; Holland; Jay; Lowell; Morgan; Newport City; Newport Town; Troy; Westfield) and the Coventry School District**

The North Country SU consists of the North Country Union High School District (“NCUHSD”), its 11 member districts, and the single-town PreK-12 district of Coventry. The unorganized town of Ferdinand is assigned to the SU for administrative and other services for the years in which school-aged children reside there. The supervisory union covers 520 square miles. Travel time between the two most distant schools is approximately one hour.

Structurally, the NCUHSD resembles a modified unified union school district. Of the 11 members of the union high school district:

- Five are members of the NCUHSD for grades 7-12 (Derby; Holland; Jay; Morgan; Newport City)
- Four operate schools for grades 7-8 as independent, single-town school districts and are members of the NCUHSD for grades 9-12 (Brighton; Charleston; Lowell; Troy)
- Two pay tuition for grades 7-8 as independent, single-town school districts and are members of the NCUHSD for grades 9-12 (Newport Town; Westfield)<sup>60</sup>

This intricately entwined structure is further complicated by the elementary grades, where one of the 11 town elementary districts (Morgan) pays tuition for PreK-6, while the others operate schools for those grades.

The following table explains the districts’ current operating/tuitioning structures:

	K-6		Operate	7-8		9-12	
	Operate	Tuition		Union	Tuition	Union	Tuition
Brighton	X		X			X	
Charleston	X		X			X	
Coventry <sup>61</sup>	X		X				X
Derby	X			X		X	
Holland	X			X		X	
Jay	JOINT			X		X	
Lowell	X		X			X	
Morgan		X		X		X	
Newport City	X			X		X	
Newport Town	X				X	X	
Troy	X		X			X	
Westfield	JOINT		X		(X)	X	
(Ferdinand)		(X)			(X)		(X)

<sup>60</sup> In March, the Westfield voters approved expanding NCUHSD membership to include grades 7-8 as of July 1, 2019.

<sup>61</sup> The Coventry District, which is not a member of the North Country Union High School, is addressed in Part VI(C)(b). Ferdinand is an unorganized town, not a school district, and is not discussed.

The districts' K-12 ADMs in FY 2018 are as follows:

North Country SU – 2,374.35

Brighton – 76.29

Charleston – 127.82

Coventry – 169

Derby – 128.45

Holland – 85.62

Jay – 92.96

Lowell – 128.45

Morgan – 63.40

Newport City – 548.98

Newport Town – 187.36

Troy – 212.96

Westfield – 52.75

North Country Union – 196.26 (7-8) and 686.93 (9-12)

At the elementary level, Brighton, Newport City, and Newport Town have FY 2018 ADM counts within +/- 3.5% of their FY 2014 counts. Over the same period, Coventry and Derby grew by 11.7% and 9.8% respectively, while the other seven elementary districts have seen decreases averaging 19%, with a low of almost 9% and a high of 42%. The union high school has seen a decrease of 12% between FY 2014 and FY 2018.

### **Districts' Sec. 9 Analysis and Proposal**

The boards of the 13 North Country SU districts submitted a joint proposal. The following discussion focuses on the NCUHSD and its 11 members. The Coventry School District, which is a single-town districts responsible for the PreK-12 education of its resident students, is addressed in Part VI(C)(b) below.

North Country's Section 9 Proposal explains in detail the steps that it has taken and is continuing to take regarding educational opportunities and equity. For example, after the NCSU Leadership Team recommended the NCSU Commitments and Design for Learning for SU approval in September 2015; the districts convened a Learning Design Council "(comprised of a wide range of stakeholders, including parents and students) to assess the implementation ... and to make recommendations on the next iteration for board approval next September;" and the districts are in the second year of working with Great Schools Partnership of Portland, ME through which they have "established cross-curricular standards/'Transferable Skills' that are K-12." In addition, the districts will continue "defining content proficiencies" and will define "clear learning progressions" and are in the "second year of having a 'Pathways Coordinator to support a wide range of on-line, self-designed academic study, early college and external learning opportunities." The districts would like to "expand to include community based learning and service learning opportunities at all schools."

The Section 9 Proposal states: "Our data demonstrates that there are mixed outcomes for students, that includes an achievement gap for students from poverty and those on" IEPs, acknowledging that the "achievement gaps [are] between sub-groups, between schools and to some extent between" SU and other SUs and districts outside the SU. North Country notes that

the gaps are influenced by many variables including “school culture, quality of staff, quality of instruction or design of learning, fidelity of curriculum or program implementation, and in some cases access to services.”

Districts are attempting to take advantage of scale by, *e.g.*, having the SU employ common staff and assesses out the cost to the schools based on time (*e.g.*, P.E. teacher). Noting that “working class and poor parents generally are not engaged, nor do they participate at the same level as their more educated and wealthy neighbors,” the districts acknowledge that they “need to establish a more inclusive and more participatory process for authentic engagement of all members of our school-community.”

The North Country districts assert that town-level budgets are more transparent than a centralized budget. They “believe strongly that a multi-district supervisory union is the best option for maintaining access and trust with our communities.”

To operate in a fiscally responsible manner, the districts will continue to “monitor staffing ratios and adjust accordingly,” maintain an “ongoing assessment of transportation services,” and “maximize grant funds and consider additional funding sources.”

The Section 9 Proposal states that a centralized governance structure does not make sense when the State expects personalization at the student levels. It points to the districts’ own experience that a decentralized PreK system is better than their earlier, centralized model. In summary, the North Country districts state that “we believe for our community members to remain fully vested and committed we must maintain the local democratic decision-making process that determines the direction of our schools.”

For more details, see the districts’ Snapshot at Appendix F and common data points at Appendix G. The North Country SU did not submit an electronic version of its Section 9 Proposal; contact the SU to review a paper copy.

## **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., **such as** a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

As discussed more fully in the introduction to this Part VI(A)(c), the State Board does not have the authority to require the North Country Union High School District and its many member school districts to merge into a single unified union school district. Not only do the member districts have a variety of operating and tuitioning structures but they are members of the union school district for different grades. If the voters of the districts are unwilling to adopt the same method to educate students from all towns in each grade (either by operating schools or by paying tuition for the grade), then the Legislature has not granted the State Board authority to require such a change.

The State Board could, however, require “like” elementary school districts to merge into one or more union elementary district.

The extreme complexity of the districts’ structures makes the value of merger questionable. For example, theoretically the State Board could merge the five elementary districts that operate K-8 into one union school district for those grades or the (soon-to-be) five elementary districts that are members of the NCUHSD for 7-8 into one union school district for grades K-6. But the distance between the districts and the region’s general reluctance to collaboration and resistance to centralization, even when required by statute, raise questions regarding whether any new structure would actually take advantage of the flexibility to achieve educational and fiscal improvement.

On the other hand, the law requires the statewide plan to merge districts where “possible” and “practicable.” In addition, Act 46 notes that an SU with multiple member districts is most likely to be able to meet the goals in a sustainable manner when the SU has the smallest number of member districts practicable. There has been no movement toward merger and few instances of districts sharing resources. Perhaps merger will help the very small districts in the North Country SU to find opportunities to work together for the good of all the children in the region. Although merger of the North County Union High School and its 11 member districts is not possible because of the variety of operating/tuitioning structures, the State Board could make some targeted mergers with those districts where it is possible.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board to merge the governance structures of the following pairs of districts into three union elementary school districts, each of which would provide for the education of its resident children as follows:*

- 1. The Brighton School District and the Charleston School District – to be a union elementary school district responsible for the PreK-8 education of its students*
- 2. The Derby School District and the Holland School District – to be a union elementary school district responsible for the PreK-6 education of its students*
- 3. The Jay School District and the Westfield School District – to be a union elementary school district responsible for the PreK-6 education of its students.*

## **B. Single-Town Districts that Pay Tuition for All Resident Students, PreK-12 (“Nonoperating Districts”)**

### ***General Analysis of Nonoperating Districts and Merger***

Each student living in a PreK-12 nonoperating district enrolls in the school s/he selects and, in the case of an independent school, that will accept the student. A nonoperating district has no ability to increase educational opportunities or improve equity except to the extent that it provides transportation to the schools in which its students enroll or its voters vote to pay full tuition to one or more approved independent schools. As a result, merger of nonoperating districts will not positively affect opportunities or equity unless the new unified district chooses to pursue one or both of these actions. In addition, at least one nonoperating district has expressed concern that merger would cause cessation of these practices, resulting in diminished opportunities and equity. (Act 46, Goals #1 and #2)

Nonoperating districts pay tuition to the public and approved independent schools in which their resident students enroll. Therefore, unlike a district that operates a school, a nonoperating district has no ability to institute efficiencies, increase ratios, achieve district-level economies of scale, or otherwise control its budget – except, perhaps, if voters that previously authorized their school board to pay full tuition to an independent school rescind that authority. In addition, increasing opportunities by paying full tuition increases costs and decreases affordability. Any efficiencies realized at the SU level – as a result of it being responsible for one unified district rather than two or more individual nonoperating districts – would be minimal, and might even result in the need for additional personnel.<sup>62</sup> Merger of nonoperating districts will not increase efficiencies or reduce budgets. Similarly, merger would not increase transparency or accountability for a single-town entity that exists primarily to make tuition payments. In addition, unless other SU board members were willing to request the State Board to waive the default provisions of 16 V.S.A. § 266, a merged nonoperating district (just as any merged district) would have fewer appointed representatives on an SU Board than the sum of each district’s representation prior to merger. (Goals #3 and #4)

Merger of nonoperating districts, however, can affect tax rates for residents of some or all of the member towns. For example, the nonoperating districts that created the NEK Choice District determined that unification would ameliorate tax rate fluctuations caused by unexpected tuition increases by spreading the effects over a larger student population, as tax rates are dependent on spending per pupil. In contrast, some nonoperating school boards that submitted a Section 9 Proposal posited that their tax rates would likely increase upon merger – *e.g.*, if the voters of the unified district authorized the unified board to pay the full amount of tuition. (Goal #5)

There seems to be little reason to merge nonoperating districts that do not want to be merged, although merging could add stability to tax rates. A unified governance system usually would not improve a nonoperating district’s ability to increase opportunities, equity, efficiency, transparency, or accountability. It would not decrease educational costs. There would be little or no decrease in central office administration costs. Costs might rise marginally for some town residents if their current district pays the statutory rate and the unified district voters authorize

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<sup>62</sup> See discussion of the Pittsfield School District and the Stratton School District.

payment of the full rate charged by an independent school to which statutes don't already require payment in full. In general, the only potential benefit of merging nonoperating districts is to minimize fluctuation in tax rates. If the boards of unmerged nonoperating districts do not see this as a benefit or there is no clear evidence that merger will result in tax benefits in a particular region, then there appears to be no statewide, regional, or local reason for the State Board to require the districts to unify.

### **Overview of All Current Nonoperating Districts in Vermont**

Prior to enactment of Act 46, there were a total of 21 districts organized to provide for education by paying tuition for all PreK-12 students. Of this number:

- Ten districts in the Caledonia North, Essex-Caledonia, and Essex North SUs unified into a single unified union school district responsible for the education of all Pre K-12 students by paying tuition. This new district, named "the NEK Choice District." will be fully operational on July 1, 2018 and will become a member district within the Essex North SU at that time. The district is eligible for tax rate reductions and other transitional assistance under the "RED" provisions of Act 153 (2010).
- Three districts, Baltimore, Plymouth, and St. George, chose to give up their tuitioning status and approved mergers where they became members of a PreK-12 operating UUSD.
- Two districts in the White River Valley SU formed the Granville Hancock Unified School District. The new district will be fully operational on July 1, 2018 and is eligible for tax rate reductions and other transitional assistance under the Side-by-Side provisions of Act 156 (2012).
- One district, the Ira School District, obtained early assurance under the "2-by-2-by-1" program of Act 49 (2017) that the State Board's final statewide plan would not require the Ira District to merge with another nonoperating district.

Each of the five remaining nonoperating districts have submitted Section 9 Proposals. Four requested that they remain as single town districts and the fifth acknowledged potential financial benefit in unification.<sup>63</sup>

In addition to the discussion of each of the five districts below, see each district's respective Snapshot and baseline data at Appendix F and links to the Section 9 Proposals at the [School Governance / Sec. 9 Proposals webpage](#).

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<sup>63</sup> Whether each of the five nonoperating districts should remain within its current SU is discussed in Part VII of this document.



## **16. The Pittsfield School District**

The Pittsfield School District is the sole nonoperating district in the Windsor Central SU. The recently created Granville-Hancock Unified School District (GHUSD), located in the White River SU, is the only nonoperating district within reasonable proximity to Pittsfield. The PSD had a K-12 ADM of 56.30 in FY 2018.

In FY 2017, the most recent year for which there is data, a large majority of the district's students enrolled in schools located in the Windsor Central SU, although that has not historically been the case.

### **District's Sec. 9 Analysis and Proposal**

The Pittsfield District states that its current full-tuitioning model is the best way to provide substantial equity in the quality and variety of educational opportunities and to lead students to achieve or exceed the State's educational quality standards (Goals #1 and #2). It believes that transparency and accountability are best served by maintaining its single-town governance structure (Goal #4). Finally, the proposal asserts that the Pittsfield District has "experienced a reduction in tax rates and increased efficiencies since joining the WCSU and maintaining choice" and that this "will also provide Pittsfield with additional flexibility to manage [its] students' educational expenditure and access." (Goals #3 and #5)

For more details, see the district's Snapshot data at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

### **Secretary's Discussion and Proposal**

The Pittsfield District provides no support for its contention that its tax rates dropped as a result of joining the Windsor Central SU. In fact, as explained in more detail in the Agency's recommendation that accompanied the Pittsfield District's "3-by-1" proposal to the State Board (which the Board did not approve), the district's tax rate decrease appears to have no relationship to its recent move to the Windsor Central SU. Rather, the Pittsfield District experienced both a drop in expenditures and an increase in offsetting revenues from FY 2017 to FY 2018 that resulted in reducing the rate from \$1.8917 to \$1.2882 in those years. In addition, recently enacted laws that exempt fully-tuitioning districts from adverse tax consequences associated with the excess spending threshold have benefited the Pittsfield District.<sup>64</sup>

A nonoperating district is able to realize financial benefits of any significance only by spreading the effects of unexpected tuition increases over a larger student population – i.e., by merging its governance with other nonoperating districts, as tax rates are dependent on spending per pupil. The Granville Hancock Unified School District ("GHUSD") is the only district in the region with a governance structure that is identical to the Pittsfield District. The State Board could require the Pittsfield District to merge with the GHUSD, however, only if the voters of the GHUSD accepted the additional

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<sup>64</sup> 16 V.S.A. §4001(6)(B)(vii).

town as a member. There is no indication that the GHUSD is willing to accept the Pittsfield District as a member – or that there would be significant tax benefits to either district from doing so. In addition, the Pittsfield District asks to remain a member of the Windsor Central SU, where a majority of its students currently attend school and the Windsor Central SU supports the request.

As nonoperating districts that pay the statutory tuition rate and do not provide transportation, there is no evidence that merger of the Pittsfield School District with the Granville-Hancock UUSD (if it agreed to merger) would improve educational opportunities or equity for students in the region. In addition, the Pittsfield School District does not anticipate that such a merger would result in stabilization of tax rates.

For these reasons – and because the Pittsfield School District does not wish to change its nonoperating structure – the Agency does not believe that merger into a unified district will affect whether it is a sustainable structure capable of meeting the goals of Act 46.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board request the Granville-Hancock UUSD to merge with the Pittsfield School District as part of the Board’s statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to attempt to merge the governance structure of this district, nothing precludes the Board from redrawing SU boundaries in a way that causes either or both of the districts to become a member of a different SU.

## **17. The Sandgate School District**

The Sandgate School District is a nonoperating district in the Battenkill Valley SU. The Arlington School District, which operates schools for all grades, is the only other member district in the SU. There are three other nonoperating districts in the region: The Winhall School District, which is in the Bennington Rutland SU; the Stratton School District, which is in the Windham Central SU; and the Searsburg School District, which is in the Windham Southwest SU.

The Sandgate District has a K-12 ADM of 64.9 in FY 2018. “Just over half of the Sandgate students attend Arlington schools and geographically they are by far the closest option.” Sandgate students not enrolled in Arlington schools historically attend approved independent schools located in the Bennington-Rutland SU.

### **District’s Sec. 9 Analysis and Proposal**

The Sandgate District entered into a § 706 Study Committee with the Winhall and Stratton Districts in June 2017. The Study Committee ultimately disbanded because the members concluded that although the districts were all nonoperating, they had “little else in common.” In addition, “Stratton and Sandgate both appropriated their tuition monies to students different than Winhall.” The Sandgate District was – and continues to be – concerned that a merger with the Winhall School District would increase taxes for Sandgate residents. This apprehension arises because the voters in both the Stratton and Winhall districts have voted to pay more than the statutory rate to some or all independent schools.<sup>65</sup> Ultimately, all “study committee members felt overwhelmingly their constituents would vote down the proposal.”

For more details, see the district’s Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

### **Secretary’s Discussion and Proposal**

If the Sandgate District became part of a merged district that paid higher than the statutory rate to some or all independent schools (as Winhall and Stratton currently do), its students might have access to a wider variety of schools. Sandgate students may not be able to take advantage of the availability of larger publicly-funded tuition payments, however, unless transportation was also made available. In addition, merger would likely cause Sandgate’s tax rates to increase significantly because Winhall has many more students and Winhall’s students historically take advantage of the higher tuition payments.

As a nonoperating district that pays the statutory tuition rate and does not provide transportation, it is questionable whether merger would result in increased opportunities for Sandgate students, while there is a likelihood that merger would result in tax increases for some citizens rather than help to stabilize their tax rates.

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<sup>65</sup> This concern assumes that the voters of a potential three-town unified district would similarly vote to pay tuition in an amount that exceeds the statutory rate.

For these reasons – and because the Sandgate School District does not wish to change its nonoperating structure – the Agency does not believe that merger into a unified district will positively affect whether it is a sustainable structure capable of meeting the goals of Act 46.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board merge the Sandgate School District with one or more of the other nonoperating districts in the region in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of this district, nothing precludes the Board from redrawing SU boundaries in a way that causes it to become a member of a different SU.

## **18. The Searsburg School District**

The Searsburg School District is a nonoperating district in the Windham Southwest SU. The newly created Southern Valley UUSD (Halifax and Readsboro) and Twin Valley UUSD (Whitingham and Wilmington) and the Stamford School District<sup>66</sup> are the three other member districts of the SU. The nonoperating districts of Stratton and Winhall lie directly north of the Searsburg District, in the Windham Central and Bennington-Rutland SUs.

The Searsburg District has a K-12 ADM of 18.4 in FY 2018.

### **District's Sec. 9 Analysis and Proposal**

The Searsburg District is geographically segregated into three communities, with most residents focused toward the east (*e.g.*, Wilmington and Brattleboro), a few residents focused to the south (primarily North Adams, MA), and a few to the west (*e.g.*, Bennington, Manchester, Woodford).

The district's extremely small size would suggest that merger might ameliorate tax rate fluctuations.

The Searsburg District Board has engaged in multiple discussions and studies groups with other districts in and outside the region, however, and concludes in its Section 9 Report "that there is no benefit to our students or taxpayers through any possible merger at this time."

The Searsburg District also considered merger with the districts that created the Southern Valley UUSD, which operate elementary schools, but is concerned about the safety of transporting students to the Halifax or Readsboro elementary schools during the winter.

For more details, see the district's Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

### **Secretary's Discussion and Proposal**

If the Searsburg District became part of a merged district that paid higher than the statutory rate to some or all independent schools (as Winhall and Stratton currently do), its students might have access to a wider variety of schools. The isolation and geography of the Searsburg District would suggest that few students would be able to take advantage of the availability of larger publicly-funded tuition payments, however, especially if transportation was not also made available. In addition, merger would likely cause Searsburg's tax rates to increase significantly because Winhall has many more students and Winhall's students historically take advantage of the higher tuition payments.

As a nonoperating district that pays the statutory tuition rate and does not provide transportation, it is questionable to what extent merger would result in increased opportunities for Searsburg students, while there is some likelihood that merger would result in tax increases for Searsburg citizens rather than help to stabilize their tax rates.

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<sup>66</sup> The Stamford School District is discussed as # 32 in Part VI(C)(a) below.

For these reasons – and because the Searsburg School District does not wish to change its nonoperating structure – the Agency does not believe that merger into a unified district will positively affect whether it is a sustainable structure capable of meeting the goals of Act 46.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board merge the Searsburg School District with one or more of the other nonoperating districts in the region in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of this district, nothing precludes the Board from redrawing SU boundaries in a way that causes it to become a member of a different SU.



## **19. The Stratton School District**

The Stratton School District is a nonoperating district in the Windham Central SU. The SU also includes two newly created unified union school districts (one of which is an MUUSD) that will be operational in July 2019, one PreK-6 district that is a member of the MUUSD for grades 7-12, and one district that operates a school through grade 8 and pays tuition for grades 9-12.

Although the Stratton District's ADM is historically in the mid-30s, it is paying tuition for 47 students, K-12, in FY 2018. Its students enroll almost exclusively in independent schools located in the region.

### **District's Sec. 9 Analysis and Proposal**

The Stratton District has "a history of paying the full announced tuition for any area [independent] school that agrees to enroll any Stratton resident choosing to attend that school." In addition, the district provides transportation, "to the greatest extent possible for students to attend [the] open enrollment schools"

During the summer of 2017, the Stratton District engaged in a § 706 study committee with the Sandgate and Winhall Districts. The Committee ultimately disbanded. The Stratton District was – and is – concerned that merger with these two districts would raise the tax rate for Stratton residents (based upon modelling by the study committee's consultant) while potentially decreasing opportunities and equity for Stratton students (because the Sandgate and Winhall districts do not currently have the same tuition paying policies and do not provide the same level of transportation.

The Stratton Board acknowledges that a merger of the Sandgate, Stratton, and Winhall districts would "consolidate the functions" related to a nonoperating district from three SUs to one SU, but states that it "is not clear that the merged structure maximizes operational efficiencies." In fact, the Board anticipates that the "workload for special education, transportation, and preschool services [in a merged Sandgate-Stratton-Winhall district] would be increased to the point of requiring increased personnel .... None of the three superintendents involved ... saw an effective and efficient way to provide services to a merged district."

The Stratton District's Section 9 Proposal included actions that its board intends to take in connection with the five educational and fiscal goals of Act 46, including "continu[ing] to look for ways to assist families in choosing educational opportunities that meet the needs and academic interests of their children [and informing] and supporting families and they navigate" the increasingly available opportunities for "less traditional students."

For more details, see the district's Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

## Secretary's Discussion and Proposal

The Stratton School Board has legitimate concerns that merger with the Winhall and/or Sandgate School Districts might minimize current opportunities and equity and that merger with the much larger Winhall might increase its tax rates.

Because the Stratton School District does not wish to change its nonoperating structure, the Agency does not believe that merger into a unified district will improve its ability to be a sustainable structure capable of meeting the goals of Act 46.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board merge the Stratton School District with another nonoperating district in the region in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of this district, nothing precludes the Board from redrawing SU boundaries in a way that causes it to become a member of a different SU.

## **20. The Winhall School District**

The Winhall School District is a nonoperating district in the Bennington-Rutland SU. The SU also includes two newly created unified union school districts that will be operational in July 2018.

The Winhall District has a K-12 ADM of 180 in FY 2018. A large majority of the district's students, in both elementary and secondary school, enroll in the region's independent schools. In FY 2017, the most recent year for which data is available, the ratio of public school enrollment to independent school enrollment was 1:4 (elementary) and 1:10 (secondary).

### **District's Sec. 9 Analysis and Proposal**

For many years, the Winhall District has paid tuition in an amount exceeding the statutory rate, up to the amount charged by the Burr and Burton Academy. The voters have recently begun to question the effect this has on their tax rates and have discussed beginning to pay tuition in the statutory amount. The District and the Academy reached a one-year arrangement to ease the pressures on the tax payers.

For more details, see the district's Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

### **Secretary's Discussion and Proposal**

The Winhall District is a nonoperating district with a history of paying tuition in an amount that exceeds the statutory rate to the independent schools in which its students enroll and providing some level of transportation to those schools. Merger is therefore unlikely to increase the equity or variety of educational opportunities available to its students. The district's spending per pupil is higher than other nonoperating districts in the region, but because its ADM is also much larger than theirs, Winhall is unlikely to experience significant tax benefits from merger.

Although the Winhall District has expressed an interest in merging with another nonoperating district, its request is outweighed both by the negligible benefit merger would provide to Winhall and also by the very strong likelihood that it could negatively affect the districts with which it might merge, as explained in connection with the preceding three proposals.

Because the Winhall School District does not wish to change its nonoperating structure, the Agency does not believe that merger into a unified district will improve its ability to be a sustainable structure capable of meeting the goals of Act 46.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board merge the Winhall School District with another nonoperating district in the region in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of this district, nothing precludes the Board from redrawing SU boundaries in a way that causes it to become a member of a different SU.

## **C. Town Districts Responsible for PreK-12 and Union Districts Not Exempt from Merger**

Each of the final group of districts is a single district responsible for the PreK-12 education of its resident students. In some instances, the district consists of one town, while others are multi-town union districts that were created many years ago.

The districts discussed in this Part VI(C) are divided into two categories:

- Districts for which merger is “possible” but for which the State Board will want to explore whether creation of a unified union school district is “practicable” and whether retaining the current structure is the “best” way to achieve the Act 46 goals are under the subheading **“Districts for Which Merger is “Possible” ... BUT is Merger Also “Practicable”? And/or is Retaining the Same Structure “Best”?**
- Districts which for merger is “impossible,” impracticable,” or both due to geography and the operating/tuitioning structure of neighboring districts are under the subheading **“Districts for Which Merger is Either NOT “Possible” or NOT “Practicable” or Both”**

For more details, see the district’s Snapshot at Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#); and, where appropriate, the Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

**a. Districts for Which Merger is “Possible” ... BUT is Merger Also “Practicable”?  
And/or is Retaining the Same Structure “Best”?**

**21. The Blue Mountain Union School District (Towns of Groton, Ryegate, and Wells River)**

The Blue Mountain Union School District encompasses three towns – Groton, Ryegate, and Wells River – and provides for the PreK-12 education of its resident students by operating a school offering those grades. Although the voters approved its formation in 1964, Blue Mountain did not become fully operational until 1970 because of lengthy court actions.

The Blue Mountain District currently operates as a Supervisory District, its own single-district SU. At its May 2018 meeting, the State Board of Education voted to adjust SU boundaries pursuant to 16 V.S.A. § 261, making Blue Mountain a member district of the Orange East SU.

The district’s K-12 ADM in FY 2018 is 380.25. Its ADM has fluctuated by approximately 2% in each of the last five year, reaching a high point in FY 2018 that is just shy of 2% higher than its FY 2014 ADM.

The FY 2018 ADM for the entire Orange East SU is as follows:

- Orange East SU (with Blue Mountain) – 1,737.5
- Newbury (K-6) – 137
- Bradford ID (K-6) – 221
- Oxbow Union High (7-12) – 273.83
- Blue Mountain Union (three towns; K-12 o) – 380.25
- Waits River Valley Union – 332.42
- Thetford (K-6 o / 7-12 designating) – 394

**District’s Sec. 9 Analysis and Proposal**

The Blue Mountain District proposes to retain its current governance structure. Its Section 9 Proposal, submitted several months prior to the State Board’s SU boundary decision in May, stated that it would prefer to remain a single-district SU.

After engaging in exploratory conversations with the districts of the Orange East SU in late 2015, the Blue Mountain District participated as a member of a § 706 study committee with the Bradford and Newbury Districts. The study committee disbanded in April 2017, after a year of conversation, for a number of reasons. For example, based upon the committee’s projections, the tax rate in Bradford would increase if the districts unified. “In order to control those costs it would require the closing of a school in the [unified] district or a change in the grades that schools operated.” The Section 9 Proposal reports that a majority of the study committee members did not support school closure or grade re-configuration. Blue Mountain’s opposition to a merger proposal that would result in closing its school or changing the grades for which it operates rests primarily on the distance Blue Mountain students already travel between home and school, which in some instances exceeds one hour. “Additional bus time for students who would live up to 30 miles away from Oxbow High School was deemed to be inappropriate ... and would limit their participation in extracurricular activities.” The Section 9 Proposal pointed



out that the Spaulding Union High School building is closer to some Groton students than is the Oxbow Union School. In addition, the “feasibility of a continued interstate bussing agreement” with SAU23 in New Hampshire, which currently saves the Blue Mountain District \$77,000 annually, was not certain in a unified district. Finally, the Blue Mountain members of the § 706 study committee determined that unification would result in “minimal educational opportunity increases” especially in light of the current public high school choice program.

The Section 9 Proposal states that “as a result of these school closure conversations the BMU Board ... made the decision that if BMU did not operate a high school at BMU, they would hold community votes to become” a PreK-8 operating / 9-12 tuitioning district, reasoning that if high school grades are no longer offered at the Blue Mountain campus, then “more opportunities would be available for high school students via school choice than merger.”

The Blue Mountain Board reached out to the Danville School District, which was then in the midst of its own § 706 study committee conversations with the Cabot School District and the Twinfield Union School District. After the voters in those three districts failed to approve the proposed merger, the Blue Mountain and Danville Boards entered into a series of facilitated conversations. Ultimately, the Danville School Board determined that it preferred to explore opportunities with the St. Johnsbury Academy (“SJA”) and SJA “made it clear to Danville that those relationships would not extend to students at Blue Mountain.” However, “Danville and BMU are both interested in working together to find ways to offer more opportunities for students through a series of contractual relationships.”

The Section 9 Proposal states that the Blue Mountain District is meeting the Act 46 goal of excellence and equity of opportunity. “By having articulated curriculum, vertically aligned grades ..., with established benchmarks, we are ensuring that all students have equitable access to curriculum.” Blue Mountain administers several local assessments across grade levels as well as the SBAC and Science NECAP. The data from these assessments are used to determine Tier II interventions. Blue Mountain has removed prerequisites so that students can enroll in dual enrollment classes even if no college credits are earned. The district is in preliminary discussion with River Bend Career and Technical Center about offering programs on the Blue Mountain grounds.

By partnering with River Bend we would have access to over \$100,000 in innovation and other grant funding, as well as access to transportation through the tech center. We could use current staff to run the program, current transportation routes, and would likely see an increase in tuition revenue from school choice students in the region.”

The Section 9 Proposal notes:

One noted area of need in the region is a quality special education / alternative placement program for students in the elementary and middle grades. BMU is interested in partnering with Danville to create a regional center to better serve students.”

Blue Mountain asserts that it “has made an investment in curriculum and instruction and has created the conditions for [the achievement] gap to begin to lessen... Preliminary data from this

academic year shows that we are seeing an improvement.” In addition, the Blue Mountain Board notes that this district is one of the first districts to participate in EQS review, through which it “received high marks,” and is using its continuous improvement plan to address areas in need of improvement.

The Blue Mountain Board is continuing, and hopes to expand, its current collaboration with SAU 23 in Haverhill, NH. The two districts have entered into an interstate transportation agreement with shared bus routes and a jointly negotiated contract. In addition, Blue Mountain and SAU 23 students can take courses at either campus, “schedules permitting,” and the two districts share foreign language staff. Although discussions regarding closing the NH high school and operating joint high school on the Blue Mountain campus are currently on hold, the NH district is considering is closing high school and paying tuition for its students, which “could have a positive impact on BMU’s enrollment.” The Blue Mountain District is seeking other opportunities for regional collaboration by, *e.g.*, developing a memorandum of understanding with Little Rivers, a “local federally qualified health center ... [to provide] a school social worker, mental health counselor, and a home/school coordinator in exchange for office space.” It is also exploring the possibilities of providing special education programming on a regional basis.

The Section 9 Proposal observes (when it was submitted) that the Blue Mountain District is already an SD and posits that becoming one member of a multi-district SU “would add unneeded levels of bureaucracy to an already streamlined structure.” The Blue Mountain Board states that the “current operating structure is financially efficient when compared to other merger options,” declaring that there would be no financial savings if it became part of the Caledonia Central SU and that “merging with OESU would increase taxes.”

In contrast, the Section 9 Proposal asserts, collaboration with SAU23 in NH saves money.

The Section 9 Proposal notes that Blue Mountain will have no debt at the end of FY 2019. It indicates that increases in per pupil spending have been small in recent years and projects that “per pupil spending will decrease in 2019 as a result of growing population.”

The Section 9 Proposal states that the creation of the Blue Mountain Union School District approximately 40 years ago “resulted in the closure of five local schools, the elimination of high school choice in Ryegate, and the dissolution of three school districts. Blue Mountain feels that it has already met the spirit of the law for school consolidation.” In addition, “over 70% of students and community members” want Blue Mountain to remain a PreK-12 operating district within its own single-district SU.

For more details, see the Snapshot at Appendix F and common data points at Appendix G. The Blue Mountain District did not submit an electronic version of its Section 9 Proposal; contact the district to review a paper copy.

## **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be

the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a **supervisory union with member districts** or a **unified union school district with a smaller average daily membership.**” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

Using FY 2018 figures, the merger of the Bradford, Newbury, and Oxbow Districts would result in a combined ADM of 631.83, too small to operate as its own SU but arguably large enough to function as a single unified district. If the State Board were to require these districts also to merge with Blue Mountain, then the resulting unified district would have an ADM, in FY 2018 numbers, of 1,012.

Blue Mountain’s Section 9 Proposal states that “over 70% of students and community members” want Blue Mountain to remain a PreK-12 operating district within its own single-district SU. Merger is not “impossible” or “impracticable” because of community opposition, however. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The Legislature does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

Inherent in the desire to remain in its current structure is the premise that maintaining decision-making at a more local level is the best way to ensure responsiveness, transparency,

accountability, and fiscal responsibility and that a centralized board, and larger, unified budget are not. It is understandable that community members would mourn transition from a school-centric budget to a multi-school budget, especially where many community members can remember that same transition made 40 years before. Given the Legislature’s presumption that the “preferred structure” with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency, accountability and fiscal efficiency, the shift to decision-making by a larger unified board is not a reason to preclude the State Board from requiring merger.

The Newbury District’s Proposal suggests that if Blue Mountain remained a distinct district that became a member of the Orange East SU, then it would be easier to facilitate sharing of programs and staff between the two high schools and perhaps among the elementary schools as well. Although small districts have employed this approach throughout the State for many years, it is important to note that there are weaknesses to this arrangement that do not exist in a unified district. For example, small districts sometimes share staff by arranging for each district to employ the same individual for a fractional position, all of which would hopefully total 1.0 FTE. While this is sometimes a successful arrangement, districts often report either that highly valued employees leave for a single full-time position with full benefits in a larger, often unified, district or that the candidates interested in cobbling together employment through a series of part-time contracts are less well qualified. Alternatively, some small districts share staff by authorizing the SU to hire teachers and other professionals. In such an arrangement, the respective cost of each SU-level employee would be allocated to the districts in which the employee works. The local board would thus have a diminished personnel-related role in relation to the SU’s employee and the voters would have no ability to control or reject the costs the SU allocates to the local budget – which could negatively affect their ability to fully fund the programs in their own elementary school. While these approaches may be all that are available in some regions of the state – especially where districts cannot merge unless the voters agree to change the current operating/tuitioning structures – it not always the best one in regions where merger is possible. Even so, it is worth noting that although small, neither the Blue Mountain District nor a merged Bradford-Newbury-Oxbow district are as small as the, usually elementary, districts where this approach has been shown to be less sustainable.

It is notable that the Newbury and Blue Mountain Districts have an existing relationship, including a current program of limited elementary school choice between the two districts. Although this is a reasonable option for districts where merger is not possible or practicable, a program of limited multi-district choice is not as effective as the broader and more accessible ability to support elementary school choice in a unified district.

In addition, The Blue Mountain District has a demonstrated history of creative thinking and collaboration with other districts both within and outside the State.

There are credible arguments supporting Blue Mountain’s contention that maintaining its current structure, albeit as a member district of the Orange East SU, is the “best” means – at this point in time – of creating a sustainable structure capable of meeting the Act 46 Goals. The Blue Mountain District has a long history of collaboration with other districts in the region. The Bradford, Newbury, and Oxbow Districts, by their own admission, do not work well together and have experienced “long-term, systemic challenges within the OESU governance structure.” The State Board has voted to adjust SU boundaries so that the Blue Mountain District is a

member district of the Orange East SU. If the State Board chooses to merge the Bradford, Newbury, and Oxbow Districts (*see* the discussion at #3 above), then the districts will be working both towards creation of a new UUSD while simultaneously creating a new SU.

On the one hand, it can be argued that the existing districts – individually and collectively, boards and townspeople – need time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision before taking the next step of merging the governance structures of Blue Mountain and the Bradford, Newbury, and Oxbow Districts into a single, unified district. It can also be argued that it will be overwhelming to add another layer to the significant work that lies ahead in creating the B-N-O unified district and adding Blue Mountain as a new member in the SU.

On the other hand, the districts have some history of some collaboration and were seriously discussing merger for a very long time. Rather than see this as too many things happening at once, the districts can use this as an opportunity to enable Bradford, Newbury, Oxbow, and Blue Mountain to change the old dynamics and create something entirely new that works for all of them.

It is both “possible” and “practicable” for the State Board to require merger of the Blue Mountain, Bradford, Newbury, and Oxbow Districts – particularly since governance merger does not necessarily translate into closure of the Blue Mountain High School grades. In addition, the B-B-N-O unified district would also be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a “preferred structure.”

Blue Mountain’s arguments that retaining its current structure is the “best” means of creating a sustainable structure capable of meeting the Act 46 Goals are not strong enough, individually or jointly, to overturn the Legislature’s presumption that a larger, unified structure is the “preferred” means of doing so – even in regions where might be necessary to include an alternative governance structure “such as” a multi-district SU.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that unified districts are the structures most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

This was a particularly difficult decision, but the Secretary trusts that the communities’ concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to merge the governance structures of the Blue Mountain Union District, the Bradford School District,, the Newbury School District, and the Oxbow Union High School District into a single unified union school district that provides for the education of its PreK-12 students by operating multiple schools.*

**See also** the discussion of the Oxbow Union High School District and its member elementary districts at #3 of Part VI(A)(a) above and the discussion of the Waits River Valley Union School District at #33 of Part VI(C)(a) below.



## **22. The Cabot School District**

## **23. The Danville School District**

## **24. The Twinfield Union School District (Towns of Marshfield and Plainfield)**

The three PreK-12 operating districts of Cabot, Danville, and Twinfield developed and presented a merger proposal to their respective voters in 2017. The Cabot and Danville voters did not approve the proposed merger and the boards of each of the three districts subsequently prepared independent proposals that they submitted in compliance with Act 46, Sec. 9. Although each proposal is discussed separately below and the Secretary's proposal for each district is not necessarily entwined, it is simplest and least confusing to discuss them together.

The Cabot School District, one of two districts in the Washington Northeast SU, is a single-town school district that provides for the education of its resident PreK-12 students by operating a school through grade 12. Cabot's K-12 ADM in FY 2018 is 150.42. AOE data reveal that the district's ADM declined by nearly 8% (13 fewer students) between FY 2014 and FY 2018, or an average of approximately 2% annually.

The Twinfield Union School District is the other member district of the Washington Northeast SU. It was created by the towns of Marshfield and Plainfield and provides for the education of its resident PreK-12 students by operating a school through grade 12. Twinfield's K-12 ADM in FY 2018 is 306.75. The district's ADM declined by 19% (73 fewer students) between FY 2014 and FY 2018.

The Danville School District is a single-town, PreK-12 district in the Caledonia Central SU that operates a school through grade 12. Danville's K-12 ADM in FY 2018 is 287. The district's ADM has fluctuated during each of the last five fiscal years, reaching a high of 301 in FY 2016 before dropping by 6.6% to a low of 281 in FY 2017. It currently has five fewer students than in FY 2014, a decrease of 1.7%.

The other districts in the Caledonia Central SU, the newly created Caledonia Cooperative School District (PreK-8 operating / 9-12 tuitioning)<sup>67</sup> and the Peacham School District (PreK-6 operating / 7-12 tuitioning) have FY 2018 ADMs for K-12 of 570 and 91 respectively.

The combined ADM for the two Washington Northeast SU districts is just over 457, K-12. The combined ADM for the three Caledonia Central districts is 948, K-12.

The Cabot, Danville, and Twinfield districts created a § 706 study committee after passage of Act 46. The three districts' boards presented the committee's report and proposed articles of agreement to the voters on June 20, 2017, naming each district as "necessary." The voters did not approve the proposal in each of the necessary districts:

Cabot – 163 Yes; 356 No; 1 Blank/Spoiled

Danville – 112 Yes; 239 No

Twinfield – 160 Yes; 103 No

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<sup>67</sup> Encompassing the towns of Barnet, Walden, and Waterford; operational on July 1, 2018.



## Districts' Sec. 9 Analyses and Proposals

The Cabot, Danville, and Twinfield Districts' proposals are outlined separately below.

For more details, see each district's Snapshot at Appendix F; common data points at Appendix G; a link to each school board's Section 9 Proposal at [School Governance / Sec. 9 Proposals webpage](#); and the C-D-T Study Committee's Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **The Cabot School District**

The Board of the Cabot School District proposes that the district remain a single-town district that operates all grades, K-12. It proposes a number of steps to meet the goals of Act 46 in a sustainable manner, such as:

- Making "targeted enhancements" to the high school curriculum such as: "reintroducing design/technology curricular opportunities and hiring a faculty member to support such a position;" "develop[ing] assessment measures and building strategic relationships with employers and partners to develop a career ready workforce;" and "returning the social studies and language arts positions to full time equivalent or adding adjunct educators to offer specialized classes" in FY 2019 – FY 2020. Targeted enhancements would also include "hiring or identifying a current faculty member to oversee the expansion administration of experiential learning opportunities," which the Section 9 Proposal stated that the proposed FY 2019 budget would support, potentially turning a part-time position into a full-time one. In FY 2023 and after, "as enrollment allows," the district will look to "expanding the high school foreign language program to include an additional language" and adding "foreign languages to elementary grades."
- Working with "Advantage Cabot," a private non-profit entity that "has developed an independent boarding program targeting out-of-state high school students who will attend Cabot School and be housed with local host families. Advantage Cabot is collaborating with the Board and administration to develop and deliver enrichment programs, academic and extracurricular, available to all high school students attending Cabot School." The nonprofit group has a goal of recruiting two students to enroll in the Cabot school in FY 2019, adding four more per year until reach 20 students in FY 2025, and reaching a maximum of 32 additional students by FY 2029. Advantage Cabot estimates that tuition from the program will add \$350,000 to the district's budget in FY 2023.
- Emphasizing CTE and early college.
- Continuing to offer "a predictable number of [public high] school choice slots."

The Cabot School District, "in cooperation with the Town ... and other community based entities," intends to explore "multiple paths to improve our infrastructure for the long term" including, *e.g.*, the possibility "of budgeting in a single year, up to \$150,000 for critical repairs, most notably to the gymnasium and its facilities;" a review of funding opportunities from non-profit entities; and an exploration of joint funding/bonding initiatives with the Town.

The Cabot School Board hopes to enter into partnerships with other districts to share programs and resources, for example “part-time equivalent instructional interventionists.” It also intends to “focus[] upon professional development ... to encourage innovative programmatic and curricular offerings.”

Cabot voters did not approve the 2017 proposal to create a unified union school district with the Danville and Twinfield Districts, which would have ceased operating high school grades at the Cabot School. Cabot’s rejection of the merger proposal was based on concerns that:

- Cabot’s “diluted power” on a unified school board “would not ensure the adequate resourcing or prioritization of the Cabot School’s remaining PreK-8 program”
- The articles of agreement “could be rewritten to hasten restructuring or the eventual closure of the Cabot School”
- Closure of the Cabot high school would provide limited, intradistrict school choice and not all the opportunities of a tuitioning district
- Closure of the Cabot High School would lead to a “potential loss of property value”

The Section 9 Proposal states that “Danville has been a natural and logical partner to explore options. Geography and a similar educational culture have been repeatedly recognized as strong starting points for scenarios encompassing merger or collaboration.” The Board affirms that in “the absence of legal and financial challenges associated with cross-supervisory union collaboration, we believe Danville would be a logical partner to form a close and cooperative relationship.”

The Board speculates that in a two-district merger of Cabot and Danville, Cabot “would retain approximately 40% of voting power on a consolidated board – likely enough representation to mitigate concerns of involuntary restructuring of grades, although based upon the 706b process we believe closure of Cabot high school would be predicate to a proposed merger.” It identifies barriers to include: the two districts would not be large enough to be considered a “preferred structure;” there is a “disparity between Cabot’s present per pupil expenditures and debt load [and] Danville’s current financial situation and absence of debt;” and the “anticipated costs of renovating the Cabot school campus.”

The Cabot School Board supports becoming a member of a larger SU “to enable the effective sharing of administrative costs among a greater number of communities.” It identifies Washington Central SU as a possible option. Both the WCSU and the Cabot School District are in the same CTE region and contract with same mental health services. In addition, U32 and three of the WCSU’s elementary schools are within 20 miles from the Cabot School. The Board stated that membership in the WCSU would give more exposure to project-based learning opportunities in Cabot and might result in more WCSU students taking advantage of the public high school choice program to enroll in the Cabot High School.

The Cabot Board is less interested in moving the district into the Barre SU because the schools are less proximate (30-35 min drive) and “the supervisory union has not previously been responsible for education of students outside of the Barre City-Barre Town community.” Nevertheless, the Board considers both SUs as possibilities .because they “anchored by comparatively large high schools versus Hazen Union, Danville, or Twinfield.” The Cabot

Board is “not convinced that ‘bigger is better,’ however, [it recognizes] that a larger program necessarily entails more areas to focus cooperative or collaborative efforts.”

### ***The Danville School District***

The Danville School District proposes to remain a single-town district that operates all grades, PreK-12, and to retain its membership within the Caledonia Central SU. It cites the proposed closure of the Cabot High School and Cabot’s “education spending per equalized pupil and the cost of renovating their core facilities – [as] clear obstacle[s] to any merger for the citizens and taxpayers of Danville.”

The Section 9 Proposal states that:

efforts over the past three years to communicate the quality of its educational programs to local families [has increased numbers of tuitioning students,] stabilizing and improving Danville’s financial picture, ensuring the breadth of Danville’s academic and co-curricular offerings, and enriching the diversity of student life at the high school.

In addition, the Proposal reports that the districts within the Caledonia Central SU have a history of cooperation, citing as examples SU-level instructional coordinators, maintenance services, and food service employees. The Proposal intends for the districts to begin “a more robust process of ongoing strategic, board-level discussions across our SU” and take actions such as a joint school climate survey and coordinated professional development opportunities.

By rejecting the C-D-T merger proposal, the Danville community “sent three key messages” regarding the importance of:

1. Maintaining and strengthening the quality of our school programs – in particular the vibrancy of our high school.
2. Ensuring the long-term financial stability and sustainability of our school’s core operations.
3. Pursuing educational partnerships with our neighbors, where possible and practicable, that lead to greater educational opportunity for our students.

In pursuit of these goals, the Danville Board proposes “continuing to access the unique cultural and entrepreneurial resources available in Caledonia county – schools, businesses, non-profits – in direct support of our educational programs” and “expanding our existing school/community partnerships – as in our newly established cooperative agreement with St. Johnsbury Academy” that will begin in the 2018-2019 school year. The Danville Board will “look to partner with other organizations wherever practicable as evidenced by our exploratory conversations with [the Blue Mountain Union School District] over establishing a regional alternative program” for students with special needs. The Board notes that Blue Mountain’s “overall enrollment [is] comparable ... and [it has a] similar educational philosophy” and the districts recognize “potential areas for establishing some regional cooperative agreements.” Although the Danville District welcomes exploring regional agreements “to enhance its core programs, particularly for

students in need of alternative placements, [it] contemplates no additional merger discussions at this time.”

The Section 9 Proposal points to the importance of maintaining a strong public high school in the region:

Danville High School is the last reasonably accessible public high school left in Caledonia/Essex Counties! Therefore, should cost pressures lead Danville to close its high school, serious questions would arise as to where regional high school students could actually attend school without inordinately long bus rides and increased transportation costs. ... Succeeding in [increasing the number of tuitioned students] will benefit not only the students of Danville, but students across the region who need and deserve a quality educational program to attend. We believe that our AGS proposal is key to the success of this effort.”

### ***The Twinfield Union School District***

The Twinfield USD “is *not* proposing that [it] should simply be ‘left alone’ to operate as it is now.” Although it is opposed to closure of its high school, the Section 9 Proposal asserts that merger with one or more other districts and/or reassignment to a larger SU would be in the best interests of the Twinfield District. The Proposal considers several possibilities including reassignment to the Washington Central SU as a stand-alone district with the possibility of eventual merger with those districts and merger with or reassignment to the Barre SU. Although Twinfield contemplates the potential for entering into regional partnerships, and perhaps eventual merger, with the Cabot or Danville School Districts, the Section 9 Proposal requests that the State Board refrain from merging the Twinfield District with either or both at this time because the financial impacts would be different than they were when the districts originally proposed merger.

The Section 9 Proposal notes that the “current enrollment in the high school of 112 students ... presents a challenge in terms of offering the fullest possible range of high school programming opportunities.” Nevertheless, it notes that Twinfield “currently provides a rich educational opportunity” including the high school’s personalized “Renaissance” program; an “80-acre environmentally diverse campus;” PLPs starting in the 7<sup>th</sup> grade; early college; integrated curriculum opportunities such as the 8<sup>th</sup> Grade Survival Unit and the grade 9-10 Synapse program; and a high percentage of enrollment in the Central Vermont Career Center. An intervention program in the elementary grades examines current performance data and provides intervention blocks four times weekly both for students who struggle academically and for those who can benefit from enrichment activities. The Section 9 Proposal states that the Twinfield District is “a pioneer in understanding, defining, and implementing Proficiency-based Graduation Requirements,” noting that in FY 2018, its 12<sup>th</sup> graders will graduate with proficiency based diploma and transcripts. Looking to the future, the Twinfield and Barre boards are discussing creation of a satellite campus at Twinfield for “eco-studies,” either as an “extension to or replacement of” an existing program at the regional career-technical education center.

The Section 9 Proposal observes that as one member of a two-district SU, it assumes responsibility for approximately two-thirds of the SU’s operational costs. This proportional

share – and perhaps the total financial responsibility – would decrease if it were a member of a larger SU.

In summary, the Section 9 Proposal states that the district is:

open to appropriate partnerships with other schools that improve educational opportunities ... while maintaining and continuing to build upon the school's hard work ... to bring the school up to Agency-directed 21<sup>st</sup> century learning standards – PBGR, Act 77, Trauma-Informed school environment, etc. – overlooked or ignored by potential partners.

The Board asks that the Agency and State Board “be mindful of how much this small school has accomplished on its own as they think about placement and partnership opportunities.”

### **Secretary’s Discussion and Proposal – the Cabot, Danville, and Twinfield Districts**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The voters of both the Cabot and Danville Districts rejected the study committee’s merger vote by greater than 2-to-1 margins. Merger is not “impossible” or “impracticable” because of community opposition, however. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.



It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable if a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

On a related topic, both the Danville and Cabot Boards cited the closure of the Cabot High School grades as a reason that their voters disapproved the study committee’s proposed merger plan, including concern that closure of those grades would result in a “potential loss of property value.” It is important to remember that even if the State Board requires two or three of the districts to merge their governance structures, they will not be unifying under the terms of the original study committee proposal and nothing in the statewide plan will require termination or reconfiguration of grades offered or closure of school buildings.

The Section 9 Proposals of both Cabot and Danville state that retaining their single-town district structures is the best way for them to be sustainable entities capable of meeting the goals of Act 46. In addition, the Cabot Board cites its citizens’ “diluted power” on a unified school board as a reason that its voters rejected creation of the proposed Cabot-Danville-Twinfield UUSD. Underlying these statements is, at least in part, the premise that maintaining decision-making at the local board level and approving district budgets at Town Meeting are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget, which often is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that the “preferred structure” with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

Some variation of the transition from local to more centralized decision-making has occurred in each of the new UUSDs created under the voluntary merger programs enacted by the Legislature. In most of those unified districts, the articles of agreement require formation of community-based entities that advise and otherwise serve as a bridge between the local community and the unified board. In addition, it is important to note that, other than the initial vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions “from the floor.”

When referring to Cabot’s “diluted power” in the proposed unified C-D-T school district (that would have closed Cabot’s high school grades), the Cabot Board indicated that its community members were concerned that a unified board “would not ensure the adequate resourcing or prioritization of the Cabot School’s remaining PreK-8 program” and that the articles of agreement “could be rewritten to hasten restructuring or the eventual closure of the remaining grades offered to be in the Cabot School.



Throughout all phases of the Act 46 process, small districts have repeated variations of the concern that their voice would not be heard on a unified board leading to: reduced programmatic offerings in favor of lowering tax rates or at urging of communities perceived as less willing to support budgetary increases at the polls; increased taxes by voters in other towns that can more easily support tax increases; failure to perform needed or desired structural improvements to school buildings in smaller towns; and the ultimate closure of smaller, more rural elementary schools. Even assuming that the members of a unified board are incapable of learning to view all of the district's students as "our" students rather than as students of "either my town or some other town," this concern has little merit if the merging districts allocate members of an equal or more similar number to each town under the Hybrid Model of board representation.

The Cabot School Board hopes to enter into partnerships with other districts to share programs and resources, for example "part-time equivalent instructional interventionists." For many years, small districts throughout the State have endeavored to increase programmatic offerings and create a more stable workforce of full-time staff by sharing teachers and other professionals. This is sometimes accomplished by two or more districts hiring the same individual for a fractional position, all of which would total 1.0 FTE. Although it is at times a successful strategy, more often districts report either that highly valued employees leave for a single full-time position with full benefits in a larger, often unified, district or that the candidates interested in cobbling together employment through a series of part-time contracts are less well qualified. While this approach may be all that is available in some regions of the state – especially where districts cannot merge unless the voters agree to change the current operating/tuitioning structures – it is an inherently unstable one.

At times, staff sharing is accomplished through the SU office, which hires the shared professional as a full-time employee. In such an arrangement, the respective cost of each SU-level employee would be allocated to the districts in which the employee works. The local school board would thus have a diminished personnel-related role in relation to the SU's employee and the voters would have no ability to control or reject the costs the SU allocates to the local budget to cover the employee's salary and benefits – which could negatively affect the local district's ability to fully fund the programs in its own school(s).

Danville cites Cabot's "education spending per equalized pupil and the cost of renovating their core facilities" as reasons that Danville voters rejected merger. Cabot similarly acknowledges the disparity between "Cabot's present per pupil expenditures and debt load [and] Danville's current financial situation and absence of debt;" and the "anticipated costs of renovating the Cabot school campus." The contention that unification will raise tax rates for one or more groups of taxpayers cannot be relied upon to prevent merger, particularly where there is no evidence that the calculation resulting in the projected increase accounted for the potential savings that can be realized by the creative and efficient use of the unified district's resources and flexibility. In addition, even assuming that merger would increase the cost per pupil and tax rates in Danville without also expanding equity, increasing opportunities, and improving outcomes, the Legislature requires the State Board to have a regional focus as it merges districts where necessary to create sustainable structures.

Cabot's ADM is trending downward. Danville's ADM has fluctuated over the last few years and although its FY 2018 numbers are higher than those in FY 2017, they are still 1.7% lower

than in FY 2014. In addition, although Danville is hopeful that its marketing campaign will continue to increase enrollment by tuitioning students, the Board was unable to indicate whether any such trending increases was accompanied by an increase in the numbers of students who are more expensive to educate. In any event, the Cabot and Danville Districts are both extremely small, particularly for districts that operate a high school, with an average FY 2018 ADM of 11.5 and 22 students respectively per grade level.

Danville's Section 9 Proposal passionately asserted the importance of maintaining strong public high school education in the region. Experience throughout the State demonstrates that decreasing student population in a small district is not sustainable and ultimately leads to a downward spiral of increasing tax rates, reduced programming, and frequent staff turnover due to, *e.g.*, part-time positions and low salaries, especially where there are other full-time and/or better compensated options in the region. Larger governance structures have been shown to provide the flexibility needed to mitigate annual budget and tax increases, moderate tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded.

Finally, although assumption of a portion of one district's capital debt or sharing responsibility for a district's building that is in need of repair may result in tax increases, the increases may be mitigated by savings that could result from approaching the possibilities of merger in a creative manner. In addition, today's district without debt or an immediate need for renovation will tomorrow become the district that needs a new roof. In other words, long-term decision making should not be based on point-in-time circumstances. Finally, capital debt does not last forever, it is eventually paid off. Districts need to take the long view when determining what will best serve their students and all students in the region, particularly in small districts with fluctuating or declining populations, increasing budgets, or unstable tax rates.

Each of the three districts approached the Act 46-required self-analysis in an earnest manner, and identified weaknesses and steps to alleviate them. Many of the more specific action items listed, specifically in Cabot's Section 9 Proposal, however, are approaches that have been employed for many years in other districts, are elements of unified union school districts, or more significantly, are standard elements of sound district operation and represent the very baseline of educational opportunities, especially at the high school level. In addition, the Cabot voters' failure to approve a budget is an indication that the district will not even be able to take these modest steps forward towards better opportunities for its students. While these approaches may eventually lead to improvement, they do not result in creation of a sustainable structure capable of meeting or exceeding the Act 46 goals.

The Cabot Board's plan to work with "Advantage Cabot" shows creative, out-of-the box problem solving and is an interesting option to explore. Even if the nonprofit group pursues and implements its plans to the highest level, however, it remains an entity that is distinct from the school district itself and provides no assurance of sustainability for student numbers or funding sources. Ultimately, whether a district pursues contractual arrangements with other entities does not affect decisions related to *governance*.

Danville's Section 9 Proposal convincingly asserts the crucial need to maintain a strong public high school in the region, stating that the "Danville High School is the last reasonably accessible public high school left in Caledonia/Essex Counties!" It goes on to argue that if "cost pressures

lead Danville to close its high school, serious questions would arise as to where regional high school students could actually attend school without inordinately long bus rides and increased transportation costs.” Neither the Cabot nor the Danville Section 9 Proposal, however, demonstrates that remaining as two independent, single-town districts is the “best” means of creating a sustainable structure capable of meeting the Act 46 goals. Rather, given both district’s small size, the inherent flexibility of a unified district – if embraced – is the most likely way to enable the communities to be viable, particularly at the high school level.

Cabot notes that due to geography and a similar educational culture, Danville has been a natural and logical partner with which to explore options. In addition, the Cabot Board speculates that in a two-district merger of Cabot and Danville, Cabot “would retain approximately 40% of voting power on a consolidated board – likely enough representation to mitigate concerns of involuntary restructuring of grades.” One of the primary barriers that the Cabot Board raises to a two-district merger – that it would not be large enough to be a “preferred structure” – is significant only when considering whether to merge voluntarily in a way that would make the new unified district eligible for tax rate reductions. It is not a barrier to merger under the statewide plan because the Legislature acknowledged that there would be the need in some regions for alternative governance structures, “such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.”

A unified union school district formed by the Cabot and Danville School Districts would have a K-12 ADM, in FY 2018 numbers, of 437. The unified district would still be relatively small, but the additional scale and flexibility would enhance the district’s sustainability. If the new unified union school district were to be a member of the Caledonia Central SU, then the SU’s ADM would rise from its current 948 to 1,098. If Twinfield were also included, the unified district would have an ADM of nearly 745, an increase of approximately 70%, and the SU’s ADM would grow to 1,404.

Twinfield’s Board believes that merger with one or more districts and/or reassignment to a larger SU will be in the best long-term interests of the district. It requests, however, that the State Board refrain from merging it with Cabot, Danville, or both districts, claiming that the financial impacts will differ from those under the study committee’s merger proposal. Without exploring the accuracy of this assertion or considering whether it would be a valid reason on which to base a decision, the Secretary believes that other issues – of geography, affinity, creativity, and shared vision – as well as the needs of other districts in the Central Vermont region, weigh against the State Board requiring Twinfield to merge with the Cabot and Danville Districts. Given the uncertainty surrounding other districts and SUs with which Twinfield might be associated, however, the Secretary does not have sufficient information to make a proposal at this time. By the time the State Board is required to issue its final statewide plan, the Board will have the information it needs to make its decisions.

Merger of the Cabot and Danville Districts is both “possible” and “practicable.”

The Cabot and Danville Districts’ arguments that retaining their current structures are the “best” means of creating a sustainable structures capable of meeting the Act 46 Goals are not strong enough, individually or jointly, to overturn the Legislature’s presumption that a larger, unified structure is the “preferred” means of doing so – even in regions where it is necessary to

include an alternative governance structure, “such as” a multi-district SU or a UUSD with a less than optimal ADM.

A decision either to merge the Twinfield District with one or more other districts and/or to move it into a larger SU would result in the net loss of one SU (Washington Northeast) as well as increased scale for both the Caledonia Central SU and also the SU or SD of which Twinfield becomes a member.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that unified districts are the structures most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary trusts that the communities’ concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to:*

- *Merge the governance structures of the Cabot School District and the Danville School District into a single unified union school district that provides for the education of its PreK-12 students by operating multiple school, and redraw SU boundaries so that the new UUSD becomes a member district of the Caledonia Central SU.*
- *Merge the Twinfield Union School District with one or more other districts and/or move it to a larger SU when uncertainties in the region are resolved and the State Board has sufficient information to make a decision, taking into consideration that districts otherwise exempted from merger under the statewide plan are subject to SU boundary changes both under the statewide plan and, separately, pursuant to 16 V.S.A. § 261.*

*See also* the discussion of the Spaulding Union High School District and its member elementary districts and the Union 32 High School District and its member elementary districts at #4 and #5 respectively of Part VI(A)(a) above.

## 25. The Craftsbury School District

The Craftsbury School District is organized to provide for the education of its resident students by operating a school for all grades, K-12. The district is a member of the Orleans Southwest SU, which also includes a single-town PreK-12 district that operates a school through grade 6 and pays tuition for grades 7-12 (Wolcott, discussed below in Part VI(C)(b); a pre-existing union high school district; a pre-existing union elementary school district; two single-town districts that operate elementary schools; one single town district that pays tuition for grades 7-12; and one “ghost” district that is a member of both union school districts.<sup>68</sup>

The K-12 ADM for FY 2018 is as follows for the Orleans Southwest districts:

Orleans Southwest SU – 1,003.18  
Craftsbury (K-12 o) – 136.25

Hardwick (K-6 o) – 217.84  
Stannard (7-12 t) – 12.25  
Woodbury (K-6 o) – 48.74  
Hazen Union (7-12 o) – 285.21  
    [Greensboro 50.03]  
    [Hardwick 199.77]  
    [Woodbury 35.41]  
Lakeview Union (K-6 o) – 61  
    [Greensboro 43]  
    [Stannard 18]  
Wolcott (K-6 o / 7-12 t) – 241.89

The districts report that there was “mild decline in enrollments in the last 10 years of about 5%” SU-wide, but that Craftsbury’s K-12 enrollments increased by about 20% in the last 4 years. When looking at K-12 ADM instead of enrollment, data reveal there has been a very slight decrease of 0.8%, from which it’s possible to infer that the Craftsbury resident student population has been steady but that the school is enrolling more tuitioning students.

### District’s Sec. 9 Analysis and Proposal

The Craftsbury School District submitted a Section 9 Proposal jointly with the other districts in the Orleans Southwest SU. In it, the districts propose to remain as six single-town districts (two PreK-12; two PreK-6; one 7-12; one “ghost”); one union elementary school district; and one union middle/high school district in same SU.

As mentioned above in Part VI(A)(c) at #12, the districts stated that as a result of Act 46 conversations, as well as an increase in the number of children who have experienced trauma and state laws regarding universal access to prekindergarten, they are working collaboratively now in ways they have not done in the past. “Everything that you would expect to happen under Act 46 is happening or is beginning to happen.”

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<sup>68</sup> See #12 in Part VI(A)(c) for a more complete description of the interconnected nature of most of the districts in this SU.

See #12 in Part VI(A)(c) above for a summary of the Proposal's contents.

For more details, see the Orleans Southwest SU districts' Snapshot at Appendix F; common data points at Appendix G; and a link to the districts' joint Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

### **Secretary's Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the "preferred structure" for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership." Nevertheless, the Legislature limits the State Board's authority to include SUs with multiple member districts in the statewide plan by declaring that the "State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

"(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

"(2) ensures transparency and accountability for the member districts and the public at large ..."

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

In general, the Secretary defers to the Legislature's presumption that the Craftsbury School District would be better able to meet or exceed the educational and fiscal goals of opportunity, equity, and efficiency – and the district's small school would more likely remain viable and its tiny high school would be capable of providing more opportunities – if it had access to the flexibility inherent in a larger, unified structure.

Unless the voters in one or more districts are willing to alter their current operating and tuitioning structure, however, the entwined relationship of the two existing union school districts in the Orleans Southwest SU makes it structurally impossible for the Craftsbury District to merge with either union district and/or their member town districts.

The uncertain outcome of the Orleans Central SU districts' pending merger proposal, together with the "un-like" nature of the Lake Region UHSD's member elementary districts, leaves the Secretary with insufficient information to analyze the possibility, practicality, and benefits of merger with these districts directly to the north of Craftsbury District.

Looking to the west, it is unclear whether the Lamoille North MUUSD, which is exempt from State Board-required merger under the statewide plan, would be willing to accept Craftsbury as



a member and the Secretary has not analyzed the value of such a merger or the advisability of asking the MUUSD to do so.

Although there might be value in exploring the advisability of merging the Craftsbury School District with the Elmore-Morristown Unified Union School District, the Secretary has not analyzed the value of such a merger for the reasons explained in #26 below.

By the time the State Board is required to issue its final statewide plan, the Board will have any additional information it needs to make its decisions.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time, the Secretary does not propose that the State Board merge the Craftsbury School District with another district or group of districts in the region in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of this district, nothing precludes the Board from redrawing SU boundaries in a way that causes it to become a member of a different SU.

## **26. The Elmore-Morristown UUSD and the Stowe School District**

In 2015, the voters of Elmore and Morristown voted to create the Elmore-Morristown UUSD (“EMUU”), which provides for the education of its resident students by operating schools for K-12. The Stowe School District is a single-town districts that also operates all grades. The two districts are the sole members of the Lamoille South SU.

In FY 2018, the Kindergarten ADM of the EMUU is 776.51. The Stowe District has a similar ADM of 704.43, for an SU total of 1,480.94. The districts’ joint Section 9 Proposal notes that the county’s population is projected to grow by 3.6%. Agency data reveal that while the Stowe K-12 ADM has increased by 23.4 students from FY 2014 to FY 2018, both Elmore and Morristown have shown decreases in that same period of 4.1 and 30.3 students, respectively. Elmore’s ADM numbers jumped in FY 2015 but have been steadily declining since then, while Morristown’s students were relatively stable until a decrease of 25 ADM students occurred from FY 2017 to FY 2018.

### **Districts’ Sec. 9 Analysis and Proposal**

The districts have conducted five distinct studies over the last nine years in which they explored the potential for creating unified structures. One of those studies led to creation of the EMUU.

The EMUU and Stowe Districts submitted a joint Section 9 Proposal asking that both districts retain their current, distinct status.

The districts report that their teachers, students, and boards work well together. The Boards assert, however, that it is crucial to move slowly to engage the broader communities, which they describe as socioeconomically and culturally distinct, as they move toward a shared purpose and identity. The boards believe they are beginning to bridge those distinctions and that unification may occur naturally in the future.

The Section 9 Proposal acknowledges that the two districts are operating parallel systems but points also to the ways in which they currently work together, or are beginning to do so. For example, nine years of self-reflection and conversations have resulted in targeted instructional improvement plans; a unified system of educator recruitment, training, and support; a master agreement with competitive salaries for the districts’ teachers; and the restructured use of school and administrative space. The districts use an SU-wide model for food service administration, health services administration, and IT services. EMUU and Stowe parents are coming together to support joint-district sporting teams.

Although they face many of the same challenges, the intensity and causes of them are often distinct – and therefore the strategies to address them are distinct as well. The districts state that they are jointly identifying, improving, and scaling successful strategies in one school to be used as a model in another. The Section 9 Proposal states that the districts are also identifying “additional specific strategies ... to ensure a shared, collaborative focus on closing the achievement gap. ”

The Boards propose to build upon current collaborative efforts by, *e.g.*, continuing “to assess demographic trends and student performance data in order to maintain a shared understanding of emerging needs [and to build] shared solutions;” studying options to enrich opportunities in

all of the schools; and developing a joint Chinese studies program for the middle and high school students. They plan to coordinate additional joint community activities and to organize forums on issues of common concern.

Although the Boards have spoken with Wolcott about joining the SU, and about the possibility of merging with EMUU, they are concerned that the SU not become too large to sustain quality and a sense of connectedness.

For more details, see the districts' "Snapshot" at Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at [School Governance / Sec. 9 Proposals webpage](#); and the Study Committee's Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary's Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the "preferred structure" for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership." Nevertheless, the Legislature limits the State Board's authority to include SUs with multiple member districts in the statewide plan by declaring that the "State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

"(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

"(2) ensures transparency and accountability for the member districts and the public at large ..."

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

Not only is merger of the EMUU and Stowe Districts "possible" and "practicable" in this instance, but the unified district would also be of a size sufficient to support the functions of an SU, thereby creating what the Legislature has determined to be a "preferred structure."

Although the two districts are relatively large by Vermont standards and although they are and have been working hard to collaborate, it is difficult to ignore the Legislature's presumption that a UUSD that is large enough to be its own single-district SU is the "preferred structure" – the most likely to meet or exceed the Act 46 goals in a sustainable way.

As a unified district, for example, children from the three towns could enroll in any of the district's elementary schools through a program of intradistrict elementary school choice. The

unified district could either operate one middle school and one high school campus or maintain two 7-12 campuses, each with a different focus, in which students from all three towns could choose to enroll. Sharing of teachers and other resources among all buildings would be simplified and it would be easier to maintain fiscally healthy student-to-teacher ratios. A doubled ADM would reduce tax rate fluctuations and help to minimize increased per pupil costs. Much of these could be accomplished through inter-district contracts and other less formal agreements – especially between districts such as these that seem willing to explore all possibilities for collaboration – but each is simpler, more effective, and easier to sustain in a unified district.

What makes this discussion both unique and difficult is the nature and creation of the EMUU District itself. The study and vote leading to creation of the EMUU occurred after the enactment of Act 46. The new unified district, however, did not meet eligibility requirements for tax rate reductions or other transitional assistance under any of the voluntary merger programs created by Acts 153, 156, 46, or 49 because – in a nutshell – its combined ADM was less than 900 (776 in FY 2018) and it did not result from the unification of four or more districts.

In other areas of the state, newly merged districts with smaller ADM numbers qualified for tax rate reductions because they resulted from the merger of four or more districts. In addition, some unified districts formed by two districts with a combined ADM of less than 900 were eligible because they were able to partner with an additional two or more merging districts with a different operating/tuitioning structure under the “Side-by-Side” program enacted in Act 153.

Because it was ineligible for any of the voluntary merger programs, the EMUU did not receive tax rate reductions for the first four or five years of operation, was not awarded grant funds to assist with its transition to a unified structure, did not have its small school grants transformed into perpetual merger support grants, and is not exempt from State Board-required merger under its statewide plan.

Unlike what occurred in other areas of the State, the ineligibility for tax rate reductions and other assistance did not inhibit the study committee from developing the proposal or the voters from approving creation of the EMUU because they saw the opportunities for both their students and their taxpayers inherent in the larger, more flexible structure.

This does not mean that creation of the EMUU and its first years of operation have been easy. Assuming full responsibility for the education of the unified district’s children on July 1, 2016, the EMUU Board is still engaged in the work necessary to help its communities work and think of themselves as a single entity. The process is a slow one, and the details of merging two autonomous structures into a single unit is time-consuming and complex. As a result, the EMUU Board requests that it be given the time to adjust to the governance changes which it voluntarily embraced – and that the district continue to work towards greater collaborative efforts with the Stowe District – before the EMUU considers assuming the additional challenge of further merger.

Although this is a difficult decision, and although the State Board will not have the ability to require the districts to merge after November 30 of this year, the Secretary believes that this entirely unique situation presents evidence sufficient to override the presumption that a unified

district that is its own single-district SU is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary also believes that there is no other PreK-12 operating district in the region with which it would be practicable for the State Board to require the Stowe District to merge at this time.

The Secretary trusts that the EMUU and Stowe communities' concern for the well-being of all their children will impel them eventually to continue to seek opportunities to work collaboratively to improve educational opportunities and equity for all students in the region and hopes that they will eventually embrace the opportunities of a unified structure

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board merge the Elmore-Morristown Unified Union School District and the Stowe School District in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

## **27. The Enosburgh School District and the Richford School District**

The Enosburgh School District and the Richford School District are each PreK-12, single-town districts that provide for the education of their respective students by operating schools that offer all grades. The two districts maintain a total of five school buildings: Enosburgh operates buildings offering PreK-5, grades 6-8/9-12, and a CTE program. Richford operates buildings offering PreK-5 and grades 6-12.

The districts are members of the Franklin Northeast SU. Other members of the SU include the recently-created Franklin Northeast PK-8 UUSD<sup>69</sup> and the Montgomery School District, both of which operate schools through grade 8 and pay tuition for students in grades 9-12. The Sheldon School District, in the adjacent Franklin Northwest SU, similarly operates a school through grade 8 and pays tuition for its high school students. Also in the Franklin Northwest SU is the Missisquoi Valley Union High School and its member elementary districts.<sup>70</sup>

The K-12 ADM for the districts in the Franklin Northeast SU in FY 2018 is as follows:

Franklin Northeast SU – 1,465.12  
Enosburgh – 473.46  
Richford – 365.72  
FNE PK-8 USD – 453.94 (Bakersfield; Berkshire)  
Montgomery – 172.00

Agency data reveal that Enosburgh's ADM was relatively constant FY 2014 – FY 2017 before rising sharply in FY 2018, reflecting a total increase of 32.2 students (7%) since FY 2014. In contrast, Richford's ADM has fluctuated from year to year, with an overall decline of 25.5 students (6.5%) FY 2014-FY 2018.

### **District's Sec. 9 Analysis and Proposal**

The Section 9 Proposal recommends that the two districts retain their current single-town, PreK-12 operating structures within the Franklin Northeast SU.

The Enosburgh and Richford voters rejected two merger proposals presented to them since the enactment of Act 46. The first proposal recommended unification of all (then) five districts in the Franklin Northeast SU into a single district that operated all grades, PreK-12 (Enosburgh: 82 Yes / 158 No; Richford: 60 Yes / 207 No). The second proposal promoted merger solely of the two fully operating districts:

Enosburgh: 157 Yes / 65 No  
Richford: 99 Yes / 108 No

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<sup>69</sup> Although the district's name is the Franklin Northeast PK-8 UUSD, the district is in fact a district organized and responsible for the education of its students in PreK through grade 12. Its name refers to the grades for which it operates a school.

<sup>70</sup> See #30, #31, and #2 in this Part VI for discussions of the Montgomery, Sheldon, and Missisquoi Union-related Districts.



Despite the positive vote in Enosburgh and the nine vote margin of disapproval among its own voters, the Richford Board did not warn a reconsideration vote of the second merger proposal.

The Section 9 Proposal suggests that the Enosburgh and Richford voters rejected the first proposal due in part to “a mistaken belief that Act 46 would soon be repealed, inadequate additional financial savings, opposition rhetoric and a lack of specific detail on how a new single consolidated district would operate.” It posits that the second proposal

failed for reasons including debt sharing, a belief that the same outcomes could be achieved without formally consolidating, concerns over future school closures, town-based boards are valued and ought to be retained, loss of local control of town school district budget items / facilities / policy / facility management and concerns over the common tax rate which would have resulted in an increase for one town.

The Section 9 Proposal asserts that merger would result in little savings because it would not eliminate the need for the SU structure. In addition, while the Enosburgh District recently retired its bonded debt, the Richford District is still paying for its capital improvements. Although the Boards acknowledge that this dynamic will change over time, assumption of the other district’s debt concerns Enosburgh voters. Voters in both communities are anxious that a switch from Town Meeting Day floor discussions and votes to the Australian ballot model will deter people from attending a unified district’s informational meeting and deny a unified board valuable community comment. Finally, and perhaps most significantly, both Boards expressed concern that unification would precipitate closure of the Richford Junior/Senior High School. They are concerned with the loss of the significant social services support that the school district provides to this high-poverty community.

The joint Section 9 Proposal asserts that a unified tax rate will result in a “winner” and a “loser” that “would only serve to unnecessarily divide the two communities.” The boards believe that a forced merger would create animosity that will inhibit forward movement. They expressed their intent to “honor” the voters’ decision while achieving the goals of Act 46 by continuing ongoing efforts to work collaboratively.

The Section 9 Proposal states that there has been an evolution in the boards’ relationship in last few years, with an increasing awareness of how one school impacts the other. The boards state that they are committed to working together to increase the availability and equity of educational opportunities in both communities. The Section 9 Proposal provides examples of the ways in which the districts currently collaborate. For example, the districts have a common K-5 math program, have regular meetings of grade level and content level teams, “share curriculum work in a Learning Academy model,” provide collaborative in-service training, share “Innovation Coaches,” and invite students from both districts to participate in enrichment activities.

The boards recognize that additional collaboration can increase opportunities for both districts, such as by working together to hire a full time language or A.P. teacher when neither can independently recruit one for a part-time position. They suggest that shared staffing may enhance both school’s ability not only to recruit teachers but also to retain them. In addition,

online offerings in one high school might enable students in both schools to access course content and “complimentary schedules have been proposed.”

The Boards propose creation of the Enosburgh-Richford School Council, consisting of school board and community appointees, as one step toward full unification. The Council would meet at least quarterly and serve in an advisory capacity. The Section 9 Proposal states that through the work of the Council, there would be a “heightened emphasis on the sharing of resources and staff expertise” and “flexibility for the movement of students between” the two communities can become a “focal point.”

For more details, see the districts’ Snapshot at Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#); and both Study Committees’ Merger Reports and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

In their joint Section 9 Proposal and the Conversation, both boards expressed their intent to “honor” the voters’ decision not to create a unified union school district while working to achieve the goals of Act 46 by working collaboratively. They also stated that a State Board-required merger would create animosity that will inhibit progress. First, it is important to note that the vote on the most recent proposal, to merge Enosburgh and Richford into unified district that operated schools PreK-12, was not a resounding rejection of merger. In fact, the Enosburgh voters approved merger by more than 2-to-1 and the Richford voters defeated the proposal by nine votes.

Second, and more importantly, merger is not “impossible” or “impracticable” because of community opposition. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity – recognizing that in some regions it will be necessary to create alternative structures, “such as” multi-district SUs or UUSDs with less than optimal ADMs. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision – and to put aside “animosity” in order to do what is best for students.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

The Enosburgh and Richford Board also asserted that their communities are anxious that a switch from Town Meeting Day floor discussions and votes to the Australian ballot model will deter people from attending a unified district’s informational meeting and deny a unified board valuable community comment. Inherent in the desire to maintain “local control” is the premise that maintaining decision-making at the local board level and approving district budgets at Town Meeting are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget, which often is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that the “preferred structure” with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

Some variation of the transition from local to more centralized decision-making has occurred in each of the new UUSDs created under the voluntary merger programs enacted by the Legislature. In most of those unified districts, the articles of agreement require formation of community-based entities that advise and otherwise serve as a bridge between the local community and the unified board.

In addition, it is particularly important here to note that, other than the initial vote to form a UUSD and the election of the initial board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions “from the floor.”

During the Conversation, the Board representatives from both districts discussed a concern that unification would precipitate closure of the Richford school. In part, they are concerned with

losing the significant social services support that the school district provides to this high-poverty community. Even assuming that the members of a unified board are incapable of learning to view all of the district's students as "our" students rather than as students of "either my town or some other town," this concern was addressed in several ways in the most recent merger proposal. First, although the populations of the districts are not radically different, the proposal assigned board membership under the Hybrid Model, ensuring that there would always be the same number of board members residing in each town. In addition, the proposed articles of agreement included extensive protections regarding school closure and grade reconfiguration, requiring in both cases approval by more than 2/3 of the six-member unified board (*i.e.*, either five or six votes) and voter approval in the town affected by the closure or reconfiguration. If the State Board were to require merger and the accompanying default articles of agreement did not include provisions such as these, then the voters of the new unified district could vote to amend them.

The Richford District has capital debt and the Enosburgh District does not. Although the Boards acknowledge that this dynamic will change over time, the Enosburgh community sees it as a barrier to merger. The Boards are correct that basing a decision on debt levels is short-sighted, and – given the Legislature's identification of a UUSD as the best means to sustainably achieve the Act 46 goals – should not be the sole or primary reason to prevent merger where it is otherwise the best alternative. Although assumption of a portion of one district's capital debt may result in tax increases under the districts' modeling, the increases may be mitigated by savings that could result from approaching the possibilities of merger in a creative manner. In addition, today's district with little or no debt will tomorrow become the district that needs a new roof. In other words, long-term decision making should not be based on point-in-time circumstances. Finally, capital debt does not last forever, it is eventually paid off. Districts need to take the long view when determining what will best serve their students, particularly in small districts with steadily declining populations, increasing budgets, or unstable tax rates.

The Enosburgh and Richford Board expressed concern that a unified tax rate will result in a "winner" and a "loser" that "would only serve to unnecessarily divide the two communities." Even assuming the accuracy of the "winner" and "loser" assertion, the Legislature requires the State Board to have a regional focus as it merges districts where necessary to create sustainable structures. In addition, it must be noted that these are both very small districts with declining or fluctuating ADM numbers. Experience throughout the State demonstrates that decreasing student population in a small district is not sustainable and ultimately leads to a downward spiral of increasing tax rates, reduced programming, and frequent staff turnover (which the Section 9 Proposal states is already an issue). Larger governance structures have been shown to provide the flexibility needed to reduce budget and tax increases, even out tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded. Furthermore, a contention that unification will raise tax rates for one or more groups of taxpayers cannot be the sole reason to prevent merger, particularly where there is no evidence that the calculation resulting in the projected increase accounted for the potential savings that can be realized by the creative and efficient use of the unified district's resources and flexibility.

The Boards confirm that the two communities have a long history of shared services and activities, cross-town employment, and easy automobile access. The driving distance between

elementary schools is approximately 15 minutes and is 18 minutes between the middle/high schools.

The Section 9 Proposal states that there has been an evolution in the Boards' relationship in last few years, with an increasing awareness of how one school impacts the other and the ways in which they can work together to increase the availability and equity of educational opportunities in both communities. One of these ways is to create a joint advisory council, consisting of school board and community appointees, that will "look under the hood" ... in search of new opportunities and efficiencies." The Boards anticipate that through the work of the council there will be a "heightened emphasis on the sharing of resources and staff expertise" and "flexibility for the movement of students between" the two communities can become a "focal point."

The Enosburgh and Richford Boards suggest that the districts will consider increasing programmatic offerings and creating a more stable workforce by sharing teachers and other staff. If the employee were to be hired by the SU, then the respective cost of each SU-level employee would be allocated to the districts in which the employee works. The local board would thus have a diminished personnel-related role in relation to the SU's employee and the voters would have no ability to control or reject the portion of the SU employee's salary and benefits that the SU allocates to the local budget – which could negatively affect their ability to fully fund the programs in their schools. Alternatively, the districts could hire the same individual for a fractional position, all of which would total 1.0 FTE. Small districts have employed this approach throughout the State for many years. Although it is at times a successful strategy, more often districts report either that highly valued employees leave for a single full-time position with full benefits in a larger, often unified, district or that the candidates interested in cobbling together employment through a series of part-time contracts are less well qualified. While this approach may be all that is available in some regions of the state – especially where districts cannot merge unless the voters agree to change the current operating/tuitioning structures – it is an inherently unstable one.

The Section 9 Proposal also indicates the potential that "examination of other supervisory union's successful school choice policies ... can be considered for possible applicability" – citing a merged district as an example. The Enosburgh and Richford Boards' proposal to explore limited school choice policies is not the "best" approach for the region. Although it is a reasonable option for districts where merger is not possible or practicable, a program of limited multi-district choice is not as effective as the broader and more accessible ability to support elementary school choice in a unified district.

Finally, the Section 9 Proposal proposes some changes that are only realizable by creation of a unified district. For example, the districts claim that "leveling class sizes may be possible through reviews by the" advisory council. It is unclear how collaboration of two distinct structures could accomplish this, especially when they funded by independent budgets and have tax rates that are dependent upon their respective average daily memberships.

Merger of the two districts into a single unified union school district is both "possible" and "practicable."

The Enosburgh and Richford Districts' argument that remaining as separate, single-town, PreK-12 operating districts is the "best" means of creating a sustainable structure capable of meeting the Act 46 Goals is not convincing enough to overturn the Legislature's presumption that a UUSD is the "preferred" means of doing so.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature's determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary trusts that the communities' concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to merge the governance structures of the Enosburgh School District and the Richford School District into a single unified union school district that provides for the education of its PreK-12 students by operating multiple schools.*



## **28. The Fairfax School District, the Fletcher School District, and the Georgia School District**

Fairfax is a single-town PreK-12 operating district in the Franklin West SU. It is flanked by the Georgia School District to its west, which operates a school through grade 8 and pays tuition for grades 9-12. The Fletcher School District lies to the east of Fairfax and operates schools through grade 6 and pays tuition for the remaining grades. The recently unified Maple Run USD, which operates all grades and a CTE center, lies directly to the north of Fairfax. The fully operating districts of Milton, Colchester, and Essex Westford lie to its south

The K-12 ADM for the districts in the Franklin West SU in FY 2018 is as follows:

Franklin West SU – 1,751.52  
Fairfax – 753.37  
Fletcher – 197.50  
Georgia – 800.65

At their Section 10 Conversation, the boards of the three Franklin West SU districts stated that the population is growing in all three communities because the region is more affordable for young families than towns in Chittenden County. Agency data reveal that the ADM for Fairfax has remained relatively constant for the last five fiscal years, while the ADM for Fletcher and Georgia has decreased somewhat.

### **Districts' Sec. 9 Analysis and Proposal**

The three Franklin West SU districts submitted a joint Section 9 Proposal advocating that they retain their current independent structures within the same SU.

The districts have participated in two § 706 study committees. One, in 2011, proposed merger of the Fairfax and Fletchers districts into a single district that operated all grades. The voters' failure to approve the proposal led to a commitment by all three districts to work together more closely within the SU. Following the enactment of Act 46, the three districts met for over ten months to evaluate the merits of merger. Each of the three districts continued independently to self-evaluate and consider its options. In the end, each district reached the conclusion that it did not wish to change its current operating/tuitioning structure and that it wanted to remain in the same SU with the two other districts. In addition, Fairfax and Fletcher are interested in being reassigned to the Northwest CTE Region, which they believe will result in better opportunities for students at a lower cost (Georgia is already in that region).

Six years ago the districts “adopted a system-wide vision-based action plan [that targets] proficiency-based personalized learning, leadership, engaged community partners, and flexible learning environments.” Their strategies and targets have won national awards and recognition. They report that they have common “learning management systems, data systems, student information systems, maintenance, and technology” and shares services required by law and beyond. The districts have identified common issues facing their schools and are working together to implement common solutions. They have both decreased special education costs and improved results by implementing recommendations from District Management Group. In addition, they have a unified curriculum led by an SU-level curriculum coordinator

and a consolidated, SU-level IT department. They are looking to do the same with custodial and grounds staff.

The three boards meet in carousel fashion multiple times per year to “interlock governance” and are considering increasing the frequency of the meetings. The boards report that the districts are “among the lowest spending in Vermont.” Six years ago, the Franklin West SU entered into a “virtual merger” with Franklin Central SU and Chittenden Central SU that lasted for three years before the other partners chose to disband.

During the last six months, the Georgia Board met with its counterpart in South Hero; the Fairfax Board met with the Maple Run and Milton boards; and the Fletcher Board met with the Champlain Islands UUSD. The Essex–Westford Board declined to meet with Fairfax and Fletcher. The Section 9 Proposal states that some districts “had no interest in schools from FWSU. Some of the barriers included losing school choice, losing specific grade levels, and travel distance.” The boards report that both Maple Run and Essex-Westford want to settle into their newly unified structures before considering expanding to include another member.

The three Franklin West districts believe that South Hero has similar values and might be a good additional member of the SU. They are concerned, however, that expanding the size of the SU will cause the central office to “lose ambition” because the SU would be geographically expansive and new structures would need to be developed to accommodate the additional members.

For more details, see the districts’ Snapshot and baseline data at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

### **Secretary’s Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is the best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

As a general proposition in this SU, the Secretary defers to the Legislature's presumption that the Fairfax, Fletcher, and Georgia School Districts would be better able to meet or exceed the educational and fiscal goals of opportunity, equity, and efficiency – and Fletcher's small school would more likely remain viable – if they had access to the flexibility inherent in a larger, unified structure.

Unless the voters in one or more of the three districts are willing to alter their current operating and tuitioning structure, however, it is structurally impossible for the State Board to require any one of the districts in the Franklin West SU to merge with another from the SU.

The districts reached out to many districts in the region. In the case of Georgia and Fletcher, there are no districts that share their respective operating and tuitioning structures within a distance that would support a reasonable sharing of students, staff, and resources.

In contrast, there are a number of other districts in the region that share the Fairfax School District's PreK-12 operating structure. Each of these districts, however, is exempt from State Board-required merger under its statewide plan, either because it is a new unified district created under one of the Legislature's voluntary merger programs or it is a pre-existing supervisory district with an ADM in excess of 900.

The three most likely candidates for merging with the Fairfax District were not interested in exploring merger with Fairfax at this time. Two of them, the recently-created Maple Run and Essex-Westford districts, want to settle into their newly unified structures before considering expanding to include another member. Both Maple Run and Essex-Westford are currently large enough to serve as their own single-district SUs – the Legislature's "preferred structure." Similarly, the Milton Incorporated School District is a single-district (and single-town) SU. Although the Fairfax District's eventual merger with any one of these districts would move the district even further toward creating a sustainable structure capable of meeting the goals of Act 46, the State Board will need to determine at that point whether it will transform one of these "preferred structures" into a multi-district SU with Georgia and Fletcher as members or whether it will assign those two districts to other SUs in the region.

It is important to note that the districts want to remain together and have a long history of collaborating effectively. It is also important to note that by moving more employees to the SU level, they are creating a larger percentage of the budget that is assessed to districts and on which voters do not directly vote.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time, the Secretary does not propose that the State Board merge the Fairfax School District, the Fletcher School District, or the Georgia School District with another district to create one or more unified union school districts in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of these districts, nothing precludes the Board from redrawing SU boundaries in a way that causes one or more of them to become a member of a different SU.

## 29. The Hartland School District and the Weathersfield School Districts

The Hartland School District and the Weathersfield School Districts are both single-town districts in the Windsor Southeast SU. Both districts operate schools through grade 8 and pay tuition for their students in grades 9-12. The newly-created Windsor/West Windsor UUSD, which operates PreK-12, is the third member of the SU. Hartford, a single-district SU, lies directly to the north and Springfield, also a single-district SU, is to the south. The three Windsor Southeast districts are bordered to the west by the recently-formed Windsor Central MUUSD and the Green Mountain UUSD. All four neighboring districts operate all grades.

The K-12 ADM in FY 2018 for the districts of the Windsor Southeast SU is as follows:

Windsor Southeast SU – 1,307.14  
Hartland – 430.48  
Weathersfield – 311.54  
Windsor/West Windsor UUSD – 565.12

Data reveal that Hartland's K-8 ADM rose by 7% (20.7 students) from FY 2014 to FY 2017 before dropping 9.4% (29 students) in FY 2018, for an overall decline of nearly 3% (8.3 students). In contrast, the number of students for which it paid tuition rose by 7.5% and then dropped by 3.6%, for an overall increase of 3.6% (5 students) FY 2014-FY 2018.

In Weathersfield, K-8 ADM dropped by 13% (30.6 students) from FY 2014 to FY 2017 before rising by 4% (8.6 students) in FY 2018, for an overall decline of 9.5% (22 students). The ADM for Weathersfield's tuitioned students fluctuated slightly during these years, but remained roughly constant.

The Hartland and Weathersfield districts report that between FY 2004 and FY 2017, Hartland's K-8 enrollment declined by 17.24% and Weathersfield's K-8 enrollment declined by 22.35%. Between FY 2013 and FY 2017, enrollment in the same grades rose 4.35% in Hartland and declined by 11.26% in Weathersfield.

In FY 2017, the most recent year for which the Agency has data, Hartland paid tuition primarily to Hartford and Hanover High Schools (36.69 and 29.22 FTE respectively), with smaller numbers of students enrolling in Thetford Academy (18.67), Windsor (18.05), Woodstock (8.5), Kimball Union Academy (6) and one or fewer FTEs each in Oxbow, Rock Point (Burlington, VT), the Ledyard NH Charter School, Olivarian (Pike, NH), and Proctor Academy (Andover, NH).

In FY 2017, Weathersfield paid tuition primarily to Windsor and Springfield High Schools (46.75 and 20.68 FTE), with small numbers of students enrolling in Woodstock (10) and Hanover (5) and two or fewer FTEs each in Bellows Falls, Lebanon High, Vermont Academy (Saxtons River), Green Mountain, Sunapee, Putney School, Brewster (NH), and Vermont Tech.

The Section 9 Proposal states that in FY 2013-FY 2017, the percentage of students on Hartland who qualified for free and reduced-price lunch ("FRL") varied from a low of 36% (FY 2016) to a high of 42% (FY 2014 and FY 2017). In Weathersfield, it varied from 38% (FY 2016) to 48% (FY 2014) to 43% (FY 2017). Overall, eligibility has risen 4% in Hartland and is down 3% in Weathersfield.

The Section 9 Proposal states that Weathersfield students eligible for FRL “consistently out-perform students in similar cohorts throughout Vermont ... In addition, Weathersfield has the smallest performance gap between these two economic cohorts.”

### **District’s Sec. 9 Analysis and Proposal**

The Hartland and Weathersfield School Districts submitted a joint proposal in which they propose to retain their current single-town governance structure within the same SU.

The four Windsor Southeast districts formed a § 706 Study Committee shortly after enactment of Act 36 and met bi-monthly for 20 months. The committee considered multiple governance structures involving both merger and other options. It determined that Hartland and Weathersfield have similar spending, staffing, tests scores, and educational values. The committee anticipated that unification would not result in staff reductions or tax increases. It identified a number of opportunities, such as intradistrict school choice; shared enrichments and gifted/talented programs; staff sharing; and instructional collaboration.

On the other hand, the distance between schools would make it difficult to institute any of these programs. The Section 9 Proposal indicates that it is 11.5 miles between Hartland and Weathersfield schools, travel between which is 15 minutes by car and 20 minutes by direct bus. It is 30 miles between the two districts’ furthest borders, which takes more than 45 minutes to travel by car. “Currently, some students who live 10 minutes from school already face 45-minute bus rides to school”

In written responses to the common list of topics provided to all districts in advance of the Conversation, the Hartland and Weathersfield Boards stated:

We have an ongoing commitment with the districts in our SU to collaborate and strategize. The opportunities afforded to all students in all our districts are substantially similar. A Hartland/Weathersfield merger would not provide additional equity, either between the two towns or with neighboring districts.

In terms of equity with other students in our region, Hartland and Weathersfield offer similar opportunities to many of our neighboring schools and exceed them in some cases. For example, Hartland’s K-8 Spanish immersion program will be a unique opportunity for our students. We also offer a full complement of arts enrichment programs that compare favorably with other schools in our area.

There are no other nearby K-8 districts other than Hartland and Weathersfield, which are non-contiguous towns. Due to geographic distance, differing levels of indebtedness, and the fact that due to our similar cost per equalized pupil, very little tax savings would be realized; therefore we determined that a merger between Hartland and Weathersfield was not in our best interests. After careful study and consideration, we were not able to identify educational or financial benefits from merging.



The Section 9 Proposal states that the Windsor Southeast districts' siloed approach to instructional leadership ended in 2009 with the appointment of one Superintendent, a Director of Curriculum and Instruction, and the introduction of an SU-level strategic planning process. At that time, the SU provided centralized support for such services as the districts' tech infrastructure and purchasing, website development, and telephone/communications infrastructure. It intends to continue to work together to maximize benefits within the SU structure.

For more details, see the districts' Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

## Secretary's Discussion and Proposal

Under Act 46, a UUSD that is large enough to be its own SD is the "preferred structure" for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership." Nevertheless, the Legislature limits the State Board's authority to include SUs with multiple member districts in the statewide plan by declaring that the "State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

"(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

"(2) ensures transparency and accountability for the member districts and the public at large ..."

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The Section 9 Proposal alleges that differing levels of capital debt are one barrier to merger. Basing a decision on debt levels is short-sighted, and – given the Legislature's identification of a UUSD as the best means to sustainably achieve the Act 46 goals – should not be the sole or primary reason to prevent merger where it is otherwise the best alternative. Although assumption of a portion of one district's capital debt may result in tax increases under the districts' modeling, the increases may be mitigated by savings that could result from approaching the possibilities of merger in a creative manner. In addition, today's district with little or no debt will tomorrow become the district that needs a new roof. In other words, long-term decision making should not be based on point-in-time circumstances. Finally, capital debt does not last forever, it is eventually paid off. Districts need to take the long view when determining what will best serve their students, particularly in small districts with steadily declining populations, increasing budgets, or unstable tax rates.

Similarly, geographic distance is not a barrier to merger as the districts contend. The districts report that travel between the Hartland and Weathersfield schools is 15 minutes by car and 20 minutes by direct bus. Their argument that the districts' furthest borders are 30 miles, and 45 minutes, apart would be significant only if they are planning to transport students from one border to the other. If the districts merged and chose to institute a policy of intradistrict elementary choice, then parents on the far border of one town could decide whether the travel time to the school located in the other town was too lengthy. Even if a unified Hartland-Weathersfield district consolidated all of its students into one building, a student living on the furthest border in one town would not be travelling to the furthest border in the other. Similarly, the distance would have little effect on the ability to share teachers or other resources between the two school buildings.<sup>71</sup>

Merger of the Hartland and Weathersfield School Districts is both "possible" and "practicable."

As a general proposition when looking at the Hartland and Weathersfield Districts, the Secretary defers to the Legislature's presumption that they would be better able to meet or exceed the educational and fiscal goals of opportunity, equity, and efficiency – and their schools would more likely remain viable – if they had access to the flexibility inherent in a larger, unified structure. This is especially true in light of the fluctuations in the district's ADM numbers and tax rates.

The districts assert, however, that they are unable to identify any educational or financial benefits from merger. They state that the "opportunities afforded to all students in all [the Windsor Southeast SU] districts are substantially similar. A Hartland/Weathersfield merger would not provide additional equity, either between the two towns or with neighboring" districts." In addition, due to their similar cost per equalized pupil and what they perceive to be a great distance between the communities, the districts project that merger will yield little tax savings. Although small, both districts are not so small that they see huge tax rate fluctuations based on the loss or gain of a few students. There are no other districts in the region that share the same operating and tuitioning structure.

More compelling is that the communities in these districts are oriented in different directions, have little interaction, and the majority of their tuitioning students attend different schools (Hartland: Hartford and Hanover; Weathersfield: Springfield and Windsor). Except for their membership in the SU, they have no obvious connections. Because there does not appear to be any commitment of the communities to create a new definition of "us," there is scant likelihood that they will realize the potential opportunities of a larger, more flexible unified structure. More likely, unification would be blamed for any encountered difficulties.

The Secretary trusts that the communities' concern for the well-being of all their children will impel them eventually to embrace the opportunities of collaboration, and ultimately a unified structure, and work together to improve educational opportunities and equity for all students in the region.

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<sup>71</sup> The districts may want to reconsider current bus routes that resulted in the comment: "Currently, some students who live 10 minutes from school already face 45-minute bus rides."

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time because it would not advance the goals of Act 46, the Secretary does not propose that the State Board merge the Hartland School District and the Weathersfield School District into a unified union school district in the statewide plan. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

Note, however, that even if the State Board declines to merge the governance structure of these districts, nothing precludes the Board from redrawing SU boundaries in a way that causes one or more of them to become a member of a different SU.

### **30. The Montgomery School District**

The Montgomery School District provides for the education of its students by operating schools through grade 8 and paying tuition for grades 9-12. It is a member of the Franklin Northeast SU. The newly-created Franklin Northeast PK-8 Unified Union School District, which has an identical operating/tuitioning structure, and the Enosburg and Richford School Districts, both of which operate all grades, are also members of the SU.

The K-12 ADM for the districts in the Franklin Northeast SU in FY 2018 is as follows:

Franklin Northeast SU – 1,465.12  
Montgomery – 172.00  
Enosburgh – 473.46  
Richford – 365.72  
FNE PK-8 UUSD – 453.94 (Bakersfield; Berkshire)

Sheldon, which lies immediately to the Franklin Northeast SU’s west and shares an operating/tuitioning structure with both Montgomery and the FNE PK-8 UUSD, has an ADM of 338.60.

Agency data reveal that Montgomery’s K-12 ADM has risen 4.5% (7.5 students) from FY 2014-FY 2018, which breaks down to a 9% increase (9.94 students) in K-8 and a 5% decrease (4.4 students) in grades 9-12.

In FY 2017, the most recent year for which the Agency has data, Montgomery paid tuition for grade 9-12 students enrolled in the Enosburgh Falls HS (19.89 FTE), Stanstead College (11), North Country UHS (10), Richford (6); St Johnsbury Academy (4), and Lamoille UHS (1).

#### **District’s Sec. 9 Analysis and Proposal**

The Montgomery School District submitted its own Section 9 Proposal, advocating for the State Board to allow it remain a single-town district within the Franklin Northeast SU. During the February 15 Conversation, the Montgomery Board representatives indicated that it might make sense to move Sheldon into the SU, but argued strenuously against redrawing the SU boundaries to include all current Franklin Northeast and Franklin Northwest districts in a single SU.

The Montgomery voters rejected two merger proposals presented to them since the enactment of Act 46 follows:

- All (then) five FNE SU districts create a single PreK-12 operating district – 52 Yes / 219 No
- Bakersfield, Berkshire, Montgomery form a PreK-8 operating / 9-12 tuitioning UUSD – 137 Yes / 151 No

Following the November 7, 2017 rejection of the second proposal, the Montgomery electorate voted at a special meeting on January 16, 2018 to “declare [the school district] an existing district in an alternative structure to meet the requirements of Acts 46 and 49 as outlined in

Section 9 due to geographic and structural isolation” with a vote of 70 Yes, 21 No, 2 Abstain, and 1 ballot spoiled.

The Section 9 Proposal and February Conversation focused primarily on the geographical reasons that merger of Montgomery with another PreK-8 operating / 9-12 tuitioning district would be “impossible” or “impracticable.” The Section 9 Proposal states that the district is “geographically isolated” because of the inadequacy of the roads: the town is served by two Class One roads and one Class Two road, which is close for the winter. The town experiences the “highest snowfall in the state” and mud season is difficult. In the 12-month period immediately preceding submission of the Section. 9 Proposal, there were 85 vehicular accidents in Montgomery and neighboring towns.

Current bus routes to the Montgomery Elementary School are 38 minutes, 27 minutes, and 75 minutes. The distance between the Montgomery and districts in the region that share the same operating/tuitioning structure is as follows:

- Montgomery and Bakersfield:
  - Distance between schools – 16.2 miles / 30 minutes
  - Most distant points in the towns – 21-30 miles / 30-46 minutes
- Montgomery and Berkshire:
  - Distance between schools – 10.7 miles / 17 minutes
  - Most distant points in the towns – 15.2 and 16.4 miles / 24 minutes in travel
- Montgomery and Sheldon:
  - Distance between schools – 20.5 miles / 30 minutes

The Section 9 Proposal also states that the district is “structurally isolated” because the Enosburgh, Richford, and Lamoille North districts operate all grades, PreK-12.

During the February Conversation, the Board stated that their voters objected to governance merger because the proposed Hybrid model for board membership (two members each from Bakersfield, Berkshire, and Montgomery) and transition from to Australian balloting would have precluded Montgomery citizens from making decisions regarding their school, such as changes to signs or whether to build a playground.

In addition, the Board representatives indicated that voters who approved the second unification proposal did so “out of fear” that the State Board would require merger, and that the terms would be worse for Montgomery. Trying to represent voice of voters – to remain a single-town district within the SU

Finally, Montgomery voters were concerned that the school would lose teachers if they were required to travel because have to travel a long distance between schools. The Board also pointed out that even if there was, for example, a shared mental health counselor who served all elementary schools, the counselor might be assigned to a different building when there was a crisis arose at the Montgomery School.

The Section 9 Proposal asserts that there currently is “substantial equity in the type of course offerings and the amount of instructional time offered in math and literacy” in the Bakersfield, Berkshire, and Montgomery Districts. In those instances where instructional time is shorter in

Montgomery (science, social studies, PE), the “administration will continue to be mindful of equity when developing future master schedules.” In addition, Montgomery notes that it currently offers “substantially equitable interventionists in literacy and math and SpEd.” Although the Section 9 Proposal acknowledges that Montgomery’s “comparatively low per pupil spending in some ways limits our ability to provide more opportunities for excellence like additional physical education, a technology integration specialist or language immersion teacher[, these] shared resource opportunities will be explored with other districts in the region in the future.” Montgomery students have access to early education opportunities at the school building as well as community enrichment activities, community partnerships, and other unique programs.

During the Conversation, the Board representatives stated that the Act 46-required self-evaluation had illuminated deficiencies in the district’s offerings and disparities between male and female students and among students living in poverty and those who are not. The representatives noted, however, that despite a high percentage (50%) of students eligible for the federal Free and Reduced-Price Lunch program, 67% of them are meeting state assessment standards. In addition, during the last five-to-ten years, the district has initiated programs designed to address its weaknesses. To address the gender gap, the principal is “working on researching and providing teachers with resources for how best to engage male learners” and has “identified researchers in the region to reach out to as a resource for future professional development options.” “[S]everal professional development books are being considered for analysis by staff during school-wide professional development days.” In connection with both disability and the poverty gap, the Section 9 Proposal stated:

Analyzing how students are supported and the type and variety of targeted interventions and accommodations is, and will continue to be, an ongoing cycle within the established system of supports for students with disabilities.”

The Montgomery District currently shares nursing, music, and guidance services with the Berkshire and Franklin Districts. “Future potential opportunities could include shared language immersion teacher, shared literacy, math, or behavior intervention instructional coaches, etc.” The Franklin Northeast districts already centralize purchasing at the SU level as well as in a number of areas required by statute. Montgomery “believes it has demonstrated the ability to meet” Act 46, Goal # 3.

The Section 9 Proposal acknowledges that the region “continue[s] to struggle with teacher retention and turnover,” noting that after working for a few years in Montgomery, young teachers move to Chittenden County for lifestyle choices and higher salaries. The Montgomery Board members stated that 46% of licensed teachers have five or fewer years’ experience.

The Section 9 Proposal states that the district promotes and will expand transparency and accountability by, for example, participating in the SU-wide Local Assessment Plan and analysis of SBAC results; the districts’ [o]ngoing development of FNESU standards based report card/proficiency based reporting documents;” and creation of a list serve and improvement of the district’s website.

The Report also notes that in FY 2016, Montgomery had “highest student/teacher ratio of all 33 schools in its cohort” of *single-town districts* that operated K-8 schools with enrollment of less



than 200. Montgomery's ratio was higher than 241 of all 296 districts that operated schools for those grades, regardless of the school's size. In FY 2015, Montgomery had the lowest education spending per pupil (without including the cost of special education services) of its 33 school cohort. Because its tax rate is already low, the Montgomery Board believes that it would be possible to increase taxes to a "palatable" level to address identified opportunity and achievement gaps.

For more details, see the district's Snapshot at Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#); and both Study Committees' Merger Reports and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary's Discussion and Proposal**

Under Act 46, a UUSD that is large enough to be its own SD is the "preferred structure" for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership." Nevertheless, the Legislature limits the State Board's authority to include SUs with multiple member districts in the statewide plan by declaring that the "State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

"(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

"(2) ensures transparency and accountability for the member districts and the public at large ..."

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

Montgomery voters rejected the first merger proposal, to merge all five Franklin Northwest SU districts into a unified district that operated schools for all grades PreK-12, by a vote of 52 Yes / 219 No. In November 2017, they rejected a subsequent merger proposal to merge the three PreK-8 operating/9-12 tuitioning district into a unified district with the same structure, by a vote of 137 Yes / 151 No. Despite approval by Bakersfield and Berkshire, and despite the narrow margin of defeat, the Montgomery Board chose not to warn a vote to reconsider. At a subsequent special meeting convened in January, the Montgomery voters approved an item to "declare [the school district] an existing district in an alternative structure to meet the

requirements of Acts 46 and 49 as outlined in Section 9 due to geographic and structural isolation” by a vote of 70 Yes / 21 No.<sup>72</sup>

Merger is not “impossible” or “impracticable” because of community opposition, however. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

During the February Conversation, the Board stated that their voters objected to governance merger because the proposed Hybrid model for board membership (two members each from Bakersfield, Berkshire, and Montgomery) and transition to Australian balloting would have precluded Montgomery citizens from making decisions regarding their school, such as changes to signs or whether to build a playground.

Inherent in the desire to maintain “local control” is the premise that maintaining decision-making at the local board level and approving district budgets at Town Meeting are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget, which often is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that the “preferred structure” with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

Some variation of the transition from local to more centralized decision-making has occurred in each of the new UUSDs created under the voluntary merger programs enacted by the Legislature. In most of those unified districts, the articles of agreement require formation of

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<sup>72</sup> Although it is interesting to note the votes in favor of the declaration and to appreciate the sentiment behind it, nothing in law bestows legal significance on such a declaration. It is also worth noting that there were very few votes separating the favorable and unfavorable ballots cast in the November merger vote. In addition, although the statement was made here and by other districts that anecdotal post-vote conversations revealed that individuals who had approved the merger proposal did so because they hadn’t understood the consequences of their vote or out of fear, there is nothing to suggest that votes of disapproval weren’t similarly based upon misunderstanding or misinformation.

community-based entities that advise and otherwise serve as a bridge between the local community and the unified board. In addition, it is important to note that, other than the initial vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions “from the floor.” Even assuming that the members of the newly-created Franklin Northeast PK-8 UUSD are incapable of learning to view all of the district’s students as “our” students rather than as students of “either my town or some other town,” the articles of agreement require board membership under the Hybrid Model, which allocates an equal number of board seats to each town, including Montgomery if merged, even though it has the smallest population.

The Montgomery District’s argument against merger with the other districts in the region that share its operating/tuitioning structure is based upon its assertion of geographic isolation due to both distance and treacherous driving conditions. The distance between the Montgomery elementary school and the Bakersfield, Berkshire, and Sheldon elementary schools ranges from 10.7 miles, or 17 minutes driving time (Berkshire), to 16.2 / 20.5 miles, or 30 minutes driving time (Bakersfield / Sheldon). The towns of Montgomery and Bakersfield are 21-30 miles, or 30-46 minutes, at their furthest points. The towns of Montgomery and Berkshire are 15.2 and 16.4 miles, or 24 minutes, at their furthest points.

Geographic isolation is not a barrier to merger as the district contends. Its argument that the districts’ furthest borders are between 15.2 and 30 miles and 24-46 minutes, apart would be significant only if the district is planning to transport students from one border to the other. If Montgomery merged with the Franklin Northeast PK-8 UUSD, then a family living on the far edge of Montgomery could decide to take advantage of intradistrict elementary choice, or alternatively could determine that the travel time to the school located in another town was too lengthy. Even if the unified district consolidated all of its students into one building, a student living on the furthest border in Montgomery would not be travelling to the furthest border in another town. It is also interesting to note that in FY 2017, exactly 50% of Montgomery’s 52 high school students chose to enroll in schools outside the SU – including 11 students who travelled over the mountains to Stanstead Quebec, 10 who travelled to the North Country Union High School, four who travelled to St Johnsburry Academy, and one who travelled to the Lamoille Union High School.

The Montgomery District also believes that its community members voted against merger believing that teachers would leave the district if required to travel long distances between schools. The district already “shares” teachers with other districts in the region, however, (e.g. nurses, music teachers, guidance professionals) and the Section 9 proposal indicates that the district intends to broaden programming offerings through, e.g., a “shared language immersion teacher, shared literacy, math, or behavior intervention instructional coaches, etc.” Once they have experience and Montgomery has invested time/money in their training/mentoring, young teachers are already leaving at a high rate, often for higher paying jobs in Chittenden County. Rather than merger causing teachers to leave because they have to travel among buildings, it might cause them to stay if they were offered a single full-time position at a competitive salary with benefits,

rather than a series of part-time contracts with multiple employers that may or may not add up to 1.0 FTE.

The Section 9 Proposal asserts that there currently is “substantial equity in the type of course offerings and the amount of instructional time offered in math and literacy” in the Bakersfield, Berkshire, and Montgomery Districts. Self-evaluation under Act 46, however, revealed deficiencies in programmatic offerings and outcome disparities between various sub-groups of the student population. Montgomery’s Section 9 Proposal also acknowledges that the district’s “comparatively low per pupil spending in some ways limits our ability to provide more opportunities for excellence like additional physical education, a technology integration specialist or language immersion teacher.” The district intends to explore sharing these positions with other districts in the region.

Small districts have employed the approach of “sharing” teachers for many years, often by having multiple districts each enter into a separate contract with the same individual for a fractional position, all of which total 1.0 FTE. Although it is at times a successful strategy, more often districts report either that highly valued employees leave for a single full-time position with benefits in a larger, often unified, district or that the candidates interested in cobbling together employment through a series of part-time contracts are less well qualified. While this approach may be all that is available in some regions of the state – especially where districts cannot merge unless the voters agree to change the current operating/tuitioning structures – it is an inherently unstable one.

Alternatively, some elementary districts attempt to increase programmatic offerings and create a more stable workforce of full-time staff by sharing teachers and other professionals who are hired by the SU. In such an arrangement, the respective cost of each SU-level employee is allocated to each of the districts in which the employee works. The local board would thus have a diminished personnel-related role in relation to the SU’s employee and the voters would have no ability to control or reject the costs the SU allocates to the local budget – which could negatively affect their ability to fully fund the programs in their elementary school.

Experience throughout the State demonstrates that decreasing student population in a small district is not sustainable and ultimately leads to a downward spiral of increasing tax rates, reduced programming, and frequent staff turnover (which the Section 9 Proposal states is already an issue). Larger governance structures have been shown to provide the flexibility needed to mitigate annual budget and tax increases, moderate tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded.

Finally, the Section 9 Proposal states that the Montgomery District is “structurally isolated” because the Enosburgh, Richford, and Lamoille North districts operate all grades, PreK-12. It is correct that the Montgomery District could not merge its governance structure with one or more of these districts unless the voters of one or more of the districts voted to change its operating/tuitioning structure. There is no such structural barrier, however, to the merger of the Montgomery District with the Franklin Northeast PK-8 UUSD.

Montgomery’s Section 9 Proposal cites the State Board’s approval of the Marlboro School District’s “3-by-1” proposal as precedence for the conclusion that Montgomery is structurally incapable of merging with another “like” district. In the Marlboro situation, the State Board

had no reason to believe that the newly-created Southern Valley UUSD would be willing to accept Marlboro as a member and, in fact, had reason to believe that the UUSD would not. In contrast, the Franklin Northeast PK-8 UUSD's voter-approved articles of agreement explicitly granted advance acceptance of Montgomery's membership in the unified district if Montgomery voted before July 29, 2018 to join or if the State Board's final statewide plan required Montgomery to do so.

No facts have been presented to support a conclusion that merger is not "possible" or "practicable" in this instance, nor can the Agency identify any other facts that would do so.

The Montgomery District's argument that remaining a single-town school district is the "best" means of creating a sustainable structure capable of meeting the Act 46 Goals is not convincing enough to overturn the Legislature's presumption that a UUSD is the "preferred" means of doing so.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature's determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary trusts that the communities' concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to merge the governance structures of the Montgomery School District and the Franklin Northeast PK-8 Unified Union School District, acknowledging that the UUSD's voter-approved articles of agreement granted advance acceptance to Montgomery's membership.*

### **31. The Sheldon School District**

The Sheldon School District is a single-town PreK-12 district that provides for the education of its resident students by operating a school through grade 8 and paying tuition for grades 9-12. It is a member of the Franklin Northwest SU. Other members are the Missisquoi Valley Union High School District and its three member elementary districts.<sup>73</sup>

The K-12 ADM for the Franklin Northwest districts in FY 2018 is as follows:

- Franklin Northwest SU – 2,000.50
- Sheldon – 338.60 (K-8 operating / 9-12 tuitioning)
- Franklin – 99.1 (K-6)
- Highgate – 300.10 (K-6)
- Swanton – 521.1 (K-6)
- Missisquoi Union – 747.79 (three towns, 7-12)

The K-12 ADM for the districts in the neighboring Franklin Northeast SU are:

- Franklin Northeast SU – 1,465.12
- Montgomery – 172.00 (K-8 operating / 9-12 tuitioning)
- Enosburgh – 473.46
- Richford – 365.72
- Franklin Northeast PK-8 UUSD – 453.94 (K-8 operating / 9-12 tuitioning)

Data reflect that Sheldon’s ADM decreased by 4% from FY 2014 to FY 2018, a relatively moderate decrease. But over the same period of time, education spending grew by 15%.

In FY 2017, the most recent year for which there is data, Sheldon paid tuition for its high school students to attend the Enosburgh Middle/High School (33.64 students), Missisquoi Valley Union High School (17.80), and Bellows Free Academy – St. Albans (33.67).

#### **District’s Sec. 9 Analysis and Proposal**

The Sheldon School District submitted a Section 9 Proposal jointly with the other districts in the Franklin Northwest SU. In it, the districts propose to remain as one union high school district and four single-town districts (one – Sheldon – responsible for PreK-12 and the other three responsible for their respective elementary students) in same SU.

The Missisquoi Valley UHSD and its member elementary districts are discussed above at VI(A)(a) at #2.

The Franklin Northeast SU districts did not participate in a § 706 study committee or present a merger proposal to their voters. In November 2017, however, they asked their voters if they approved submitting a Section 9 Proposal recommending that the districts and SU maintain their current governance structures. The voters in each district supported the recommendation as follows:

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<sup>73</sup> See #2 in Part VI(A)(a) for a discussion of those districts.



Franklin -- 161 Yes / 0 No  
Highgate – 103 Yes / 1 No  
Swanton– 148 Yes / 105 No  
Sheldon – 87 Yes / 0 No

The Section 9 Proposal recommends approval of an “Enhanced Alternative Governance Structure” – *i.e.*, maintaining the same governance structure while addressing weaknesses identified during the process of self-analysis in order to “Act Merged – Stay Local.”

After conducting the self-analysis required by Act 46, Sec. 9, the districts conclude that there are no major issues of equity among the elementary schools, with time spent and access to programs being substantially the same. The analysis revealed that there are “gaps” in middle school programs for which the districts have developed action plans. The districts report that staff have equal access to professional development opportunities as well. Turnover varies from school to school, but the Highgate District has had a high administrator turnover (four principals in seven years). The districts have experienced the phenomenon of young professionals teaching in the Franklin Northwest SU districts for a few years to gain experience before accepting a position in Chittenden County.

The Section 9 Proposal reports that although the districts have aligned their curricula, they do not have uniform results on standardized testing and are examining methods of delivery of instruction and accountability. Further, the districts have determined that although information flows well from the elementary schools to the UHSD, the reverse is not true. The districts report that they are working to address this as well.

Some of the specific improvements and action steps identified in the Section 9 proposal include:

- “Research and implement” elementary/middle school choice among the districts of the SU; possibilities include: five students in and out per year with school board approval; splitting ADM 50/50 between the sending and receiving districts.<sup>74</sup>
- “Investigate a foreign student/out of state student team to research and develop a system designed to attract foreign and out of state students to enroll at” MVU MS/HS – from China, Canada, and New York.
- “Implement curriculum focus and accountability measures to ensure all students are provided equitable learning opportunities (*i.e.*, all teachers using and implementing same curriculum) and learning successes.”
- “Establish an ‘Instructional Resource Team’ to promote access to learning opportunities and ensure all students are afforded educational opportunity.”
- “create site-based school improvement team” (Principal, Guidance Counselor, Math Teacher, Literacy Teacher, SpEd Teacher) – “to create, monitor, and update all site-based continuous school improvement plans.”
- “formally establish[] an SU level school improvement team.”
- “Continue exploring and sharing resources” although the Proposal notes that “Many of the efficiency measures being adopted by merging districts ... have already been implemented by FNWSU.”

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<sup>74</sup> This could be done only if the Legislature amends current law.

In support of maintaining the same governance structure while working to improve upon identified weaknesses, the Section 9 Proposal makes the following points:

- The Franklin District has high test scores and low taxes – merger will increase the cost per pupil and tax rates in Franklin and will not increase student performance.
- The residents of all districts “made it clear” in the November 2017 vote that want to maintain local control and that “town identity was critical to them.”<sup>75</sup>
- Sheldon has different structure than other Franklin Northwest SU districts and so cannot be merged.
- The districts have not found evidence that merging will improve test scores.

For more details, see the districts’ Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

### Secretary’s Discussion and Proposal

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) **is** the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large ...

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

The Franklin Northwest districts’ Section 9 Proposal states that the residents of all districts “made it clear” in the November 2017 vote that they want to maintain local control and that “town identity was critical to them.” Merger is not “impossible” or “impracticable” because of community opposition, however. The Legislature determined that a UUSD that is its own SD

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<sup>75</sup> The text of the question voted by the electorates of Franklin, Highgate Sheldon and Swanton was, “Should the [Town] School District, with other members of the Franklin Northwest Supervisory Union, propose to the Vermont State Board of Education to enhance the current operation of the Franklin, Highgate, MVU, Sheldon and Swanton school boards (which is an enhance Alternative Governance Structure as defined in the Act 46/49 law)?”

is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into this structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable that a school board endeavors to implement the will of the community. In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

Inherent in the desire to maintain “local control” and “identity” is the premise that maintaining decision-making at the local board level and approving district budgets at Town Meeting are the best ways to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from a school-centric budget, which often is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that the “preferred structure” with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency and accountability, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger.

Some variation of the transition from local to more centralized decision-making has occurred in each of the new UUSDs created under the voluntary merger programs enacted by the Legislature. In most of those unified districts, the articles of agreement require formation of community-based entities that advise and otherwise serve as a bridge between the local community and the unified board. In addition, it is important to note that, other than the initial vote voluntarily to form a UUSD and the election of the board members, statute does not require Australian balloting. In fact, some of the UUSDs formed since Act 46 have eschewed a switch to Australian ballots and will instead continue to debate and vote on their unified budgets and other public questions “from the floor.”

The Franklin Northwest SU districts approached the Act 46-required self-analysis in an earnest manner and, for example, identified disparities in assessment results and “gaps” in middle school programming. They report that they are examining ways in which their methods can improve and are developing action plans.

Many of the more specific action items listed in the Section 9 Proposal (creation of an Instructional Resource Team, site-based school improvement teams, and SU-level school improvement team) are approaches that have been employed for many years in other districts or are elements of unified union school districts. In addition, the Section 9 Proposal’s specified action items primarily are to “continue doing” or “build upon” what the districts already do, are items to be studied with no particular plan of action offered

at this time, or are services that an SU is already statutorily required to provide on behalf of member districts (e.g., special education services). While these approaches may well yield improvements, they do not result in an “Enhanced Alternative Governance Structure,” but rather are standard elements of sound SU and district operation.

Even the Franklin Northwest districts’ proposal to explore limited multi-district elementary school choice is not the “best” approach for the region. Although it is a reasonable option for districts where merger is not possible or practicable, a program of limited multi-district choice is not as effective as the broader and more accessible ability to support elementary school choice in a unified district. In addition, the strategy to share ADM 50/50 between the sending and receiving districts cannot occur unless the Legislature is willing to amend current law.

The Franklin Northwest Section 9 proposal cites Sheldon’s different operating and tuitioning structure as a barrier to merger. This statement is correct only as it relates to merger of the Sheldon District with the Missisquoi Valley Union High School District and its member elementary districts. There is no such structural barrier, however, to the merger of the Sheldon District with the Franklin Northeast PK-8 UUSD. In addition, the Franklin Northeast PK-8 UUSD’s voter-approved articles of agreement explicitly granted advance acceptance of an adjacent district required to merge by the State Board’s final statewide plan.

The Sheldon District’s (as part of the Franklin Northwest districts’) argument that the proposed “Enhanced Alternative Governance Structure” is the “best” means of creating a sustainable structure capable of meeting the Act 46 Goals is not convincing enough to overturn the Legislature’s presumption that a UUSD is the “preferred” means of doing so.

No facts have been presented to support a conclusion that merger of the Sheldon District and the Franklin Northeast PK-8 UUSD is not “possible” or “practicable” in this instance, nor can the Agency identify any other facts that would do so. Creation of the unified district would also enable the UUSD formed by the merger of the Missisquoi Valley UHSD and its member districts to become its own single-district SU, thereby creating what the Legislature has determined to be a “preferred structure.” In addition, noting that Sheldon pays tuition for 40% of its students to attend a public high school in the Franklin Northeast SU, while only 20% attend the Missisquoi Valley Union High School in Sheldon’s own SU, the merger of Sheldon with a Franklin Northeast district will provide more continuity to students enrolling in schools within the Franklin Northeast SU.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature’s determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

The Secretary trusts that the communities’ concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.

*Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for each district individually and for the region – is for the State Board of Education to merge the governance structures*

*of the Sheldon School District and the Franklin Northeast PK-8 Unified Union School District, acknowledging that the UUSD's voter-approved articles of agreement granted advance acceptance to Sheldon's membership if merger was required by the statewide plan.*

## **32. The Stamford School District**

Although the deadlines have expired for most of the “voluntary mergers” contemplated by Act 46 and its incorporated laws, it is still possible for districts to explore governance unification during the period leading to the State Board’s issuance of the final statewide plan. For example, districts can consider creating:

- A unified union school district that is eligible for tax rate reductions and other transitional assistance pursuant to Act 46, Sec. 7
- A unified union school district created pursuant to 16 V.S.A. chapter 11 that is not eligible for tax rate reductions or other transitional assistance.
- An interstate school district created pursuant to state and federal law.

The Stamford School District is organized to provide for the PreK-12 education of its resident students by operating a school offering kindergarten through grade 8 and paying tuition for its students in prekindergarten and grades 9-12. On May 31, 2017, its voters declined to approve the proposal that created the Southern Valley Unified Union School District, which will become operational for the students residing in Halifax and Readsboro on July 1, 2018.

In December 2017, the board of the Stamford School District submitted its report in response to the requirements of Act 46, Sec. 9, proposing that it continue to pursue creation of an interstate school district with its neighbor to the South – Clarksburg, MA. Both communities are in the midst of exploring this option based upon existing connections (*e.g.*, most Stamford students enroll in the Clarksburg High School; the towns are adjacent and easily accessed by existing roads; Stamford residents are oriented towards the MA town for employment, health care, etc.; the other schools in Windham SW are not easy for Stamford students to access geographically; etc.)

At the Section 10 Conversation held on April 9, 2018, the board’s representatives supplied written responses to the common list of topics provided in advance to all districts. They also provided written and verbal evidence of support for exploration of the interstate compact from within both communities, the Vermont Legislature, the Massachusetts Legislature, and the Congressional delegations of both states.

For more details, see the district’s Snapshot at Appendix F; common data points at Appendix G; a link to the Section 9 Proposal at [School Governance / Sec. 9 Proposals webpage](#); and the Southern Valley Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).

### **Secretary’s Discussion and Proposal**

The timing of the currently-available voluntary merger options complicates the ability of the Secretary to issue the proposed plan by June 1, 2018, and the State Board to issue its final statewide plan by November 30, 2018. Nevertheless, the Legislature clearly contemplated that districts would continue to have the opportunity to pursue governance consolidation during the period in which the statewide plan is being



developed (e.g., the Legislature enacted both the Sec. 7 merger possibilities and the Sec. 10 statewide plan deadline in the same piece of legislation).

The Secretary's ability to comment is limited because it is impossible to predict the outcome of the Stamford School District's attempt to create an interstate school district with a state (Massachusetts) with which Vermont has never before entered into an interstate contract. By the time the State Board is required to issue its Final statewide plan, the Board will have more information, and hopefully the information it needs to make its decisions.

*Accordingly, in light of this development and out of respect for the Legislature's decision to provide the districts with this opportunity to merge voluntarily, the Secretary makes no recommendation regarding the governance structure of the Stamford School District at this time so that the Agency does not insert itself into community discussions and potential votes of the electorate. The Secretary anticipates that the State Board will review and may potentially address the governance structure of this district in its final statewide plan.*

### **33. The Waits River Valley Union School District (Towns of Corinth and Topsham)**

The Waits River Valley School District is a unified union school district located in the Orange East SU. The district operates a school through grade 8 for the resident students of Corinth and Topsham and pays tuition for students in grades 9-12. The other members of the SU are the Oxbow Union High School District, its two member school districts (Bradford and Newbury) and the Thetford School District. In May 2018, the State Board of Education redrew SU boundaries to include the Blue Mountain USD in the Orange East SU as well.<sup>76</sup>

The K-12 ADM numbers in FY 2018 for districts in the region are:

Orange East SU (with Blue Mountain) – 1,737.5

Waits River Valley Union – 332.42

Newbury (K-6) – 137

Bradford ID (K-6) – 221

Oxbow Union High (7-12) – 273.83

Blue Mountain Union (three towns; K-12 o) – 380.25

Thetford (K-6 o / 7-12 designating) – 394

Echo Valley Community (K-8 o / 9-12 t) – 265.27 (147.92 Orange + 117.35 Washington) -  
which is in the Central VT SU – 1,241.60

First Branch USD (K-8 o / 9-12 t) – 334.87 (167.17 Chelsea + 167.70 Tunbridge)

The district's Section 9 Proposal projects that *enrollment* in the Waits River Valley District is and will continue to be stable. When looking at *ADM*, data reveal that K-8 numbers have risen by nearly 15% (29.64 FTE) during the period FY 2014-FY 2018 and the ADM for Grades 9-12 has dropped by 5% (5.4) during the same period, which is an overall rise in K-12 ADM of nearly 8% (24.2).

In FY 2017, the most recent year for which data are available to the Agency, the district paid tuition on behalf of a majority of its high school students to school districts or schools located in the Orange East SU – Oxbow Union (37.84 FTE) and Thetford Academy (23.17). The Waits River Valley District also paid tuition to the St Johnsbury Academy (6.12); U-32 (5.94); Blue Mountain Union (4.2); Rivendell Interstate (3.62); Hartford (2); Chelsea (1.19); Danville, Spaulding, and Connecticut River Academy (1 each); and Northfield (0.68).

#### **District's Sec. 9 Analysis and Proposal**

The Waits River School Valley District proposes to remain a two-town unified union district that operates K-8 and pays tuition for the high school grades. It appears to see merit both to remaining in the Orange East SU and to being moved into the new Central Vermont SU<sup>77</sup>, where it would have the same operating/tuitioning structure as the newly-created Echo Valley Community School District (Orange; Williamstown).

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<sup>76</sup> See Part VI(A)(a) #3 (Oxbow UHSD and its member districts), VI(C)(b) (Thetford), and VI(C)(a) #21 (Blue Mountain) for more information and a discussion of these districts.

<sup>77</sup> The new Central Vermont SU will serve the two new UUSDs: the Echo Valley Community School District and the Paine Mountain School District.

The Waits River Valley community is oriented to the East and the South for tuitioning, employment, recreation, services, and health care. After the Legislature enacted Act 46, the district engaged in exploratory conversations with the Orange and Washington districts, the Tunbridge District and, to a lesser degree, the Chelsea District. The voters in both pairs of districts created new unified union school districts. Neither new unified district is interested in further discussions with Waits River Valley at this time. Waits River Valley states that its Section 9 Proposal “is not simply the ‘best means’ for the WRVS to meet the goals of Act 46, it is the only means!”

Describing Waits River Valley as “structurally isolated,” the Section 9 Proposal stated that the district would continue to explore “assignment of the WRVS to another SU in our region whose member districts share an educational philosophy, instructional goals, and operating structures similar to our own.” At the Conversation, the Board representatives speculated that if it is assigned to the Central Vermont SU, then the district might develop a relationship with the Echo Valley Community School District that would lead eventually to merger.

The Section 9 Proposal asserts that the district “historically and currently ... meets the requirements of the” State’s Education Quality Standards. The SU, however, “has yet to fully coordinate, implement and support the delivery of a unified approach to curriculum and instruction. Despite that absence of leadership, WRVS has forged ahead in addressing the [EQS] including a comprehensive plan for ensuring that its students meet or exceed state and national performance standards.” Even so, the Section 9 Proposal concedes that its “overall record of student performance [on standard assessments] remains uneven from grade to grade.” Examining cohorts over three years reveals “instances of steady progress, but more often the results are uneven. There was a “substantive performance gap” when results were disaggregated based on economic status, although “the only cohort large enough to examine was in grade 6.” The Section 9 Proposal concludes that “[c]learly more work needs to be done to align the school’s curriculum with state standards and provide consistent instructional approaches across grade levels, as well as the required levels of instructional support.”

The Waits River Valley School District has adopted a universal meals program, ensuring that “all scholars [can] eat breakfast and lunch at no cost. The District asserts that it is one of the most efficient K-8 operating districts in the State having undertaken a number of initiatives on its own and some in conjunction with other Orange East SU districts. Among other things, it cites its food service, fuel oil contract, and student data system as examples. It has restructured its administrative team and consolidated “its tax anticipation notes with the other districts in OESU to acquire more favorable rates.” The Section 9 Proposal indicates that the district intends to continue to explore other opportunities to collaborate and coordinate with the other member districts in Orange East.

The district also notes that its education spending per equalized pupil is “well below state-wide average for similarly structured schools” and “has grown at an annual rate of only 1.1% from FY’13 to FY’17.”

For more details, see the district’s Snapshot at Appendix F; common data points at Appendix G; and a link to the Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#).

## Secretary's Discussion and Proposal

As a general proposition when looking at the Waits River Valley District, the Secretary defers to the Legislature's presumption that the district would be better able to meet or exceed the educational and fiscal goals of opportunity, equity, and efficiency – and its school would more likely remain viable – if it had access to the flexibility inherent in a larger, unified structure.

Both the Echo Valley Community School District (Orange; Washington) and the First Branch Unified School District (Chelsea; Tunbridge) are, like Waits River Valley, two-town PreK-12 districts that operate schools through grade 8 and pay tuition for high school students. Both will be fully operational on July 1, 2018. The Echo Valley District is a member of a new, larger SU that also will be fully operational on July 1. The First Branch District is a member of the fairly recently-created White River Valley SU, which has been operational for a few years.

The State Board cannot require the Waits River Valley District to merge with either the Echo Valley District or with the First Branch District unless Echo Valley or First Branch agrees to accept Waits River Valley as a member (because both Echo Valley and First Branch are newly created districts that meet eligibility requirements for one of the Legislature's voluntary merger programs). Both new unified districts have indicated their unwillingness to merge further at this point, and both need to focus on the structural, clerical, and community-building work that accompanies unification.

The Waits River Valley District suggests that becoming a member of the new Central Vermont SU will promote collaboration with the Echo Valley District and that collaboration might lead ultimately to merger. Although this makes sense on a theoretical level and looks promising on a map, the reality is that the Waits River Valley community is focused to the east and to the south for employment, services, and tuitioning. In FY 2017, 61 Waits River Valley students (70%) enrolled in either Oxbow Union or Thetford Academy. In that same year, the district paid tuition for 0.68 FTE students to attend high school in the new Central Vermont SU. It paid tuition for just under two FTE students to attend high school in Chelsea (which the First Branch District will no longer operate as of July 1).

With a large percentage of its high school students enrolled in Oxbow Union and Thetford Academy, it is important for the Waits River Valley District to work with the other Orange East SU districts to provide continuity for students enrolling in schools within the SU.

*Accordingly, because the Secretary believes that it is not practicable to require merger at this time, the Secretary does not propose that the State Board request either the Echo Valley Community School District or the First Branch Unified School District to accept the Waits River Valley Union School District as a member. By the time the State Board is required to issue its statewide plan in November, it may have additional information with which to make the final decision.*

## **b. Districts for Which Merger is Either NOT “Possible” or NOT “Practicable” or Both**

As a general proposition when reviewing the districts in this Part VI(C)(b), the Secretary defers to the Legislature’s presumption that the district would be better able to meet or exceed the educational and fiscal goals of opportunity, equity, and efficiency – and the district’s school would more likely become or remain viable – if it had access to the flexibility inherent in a larger, unified structure.

This group, however, consists of districts that are geographically distant from any other district that shares the identical operating/tuitioning structure. In each instance, movement into a larger unified governance structure can occur only if the voters of the district (and/or the voters in one or more other districts in the region) are willing to compromise regarding the grades for which they operate schools and those for which they pay tuition.

The Secretary has found no possible or practicable way in which the State Board can require a merged governance structure for the districts listed below even if the Board were to determine that merger is necessary to create a sustainable entity capable of meeting the Act 46 goals.

*Accordingly, the Secretary does not propose that the State Board merge the governance structures of any of the following districts:*

- 34. The Arlington School District*
- 35. The Canaan School District*
- 36. The Coventry School District*
- 37. The Sharon School District*
- 38. The South Hero School District*
- 39. The Strafford School District*
- 40. The Thetford School District*
- 41. The Vernon School District*
- 42. The Windsor / West Windsor UUSD<sup>78</sup>*
- 43. The Wolcott School District*

*This does not mean, however, that the districts necessarily should remain in their current SU, an issue discussed in more detail in Part VII. The State Board can redraw SU boundaries either as part of its final statewide plan or at a later date pursuant to 16 V.S.A. § 261.*

For more details about each district, see its Snapshot at Appendix F; common data points at Appendix G; links to its Section 9 Proposal at the [School Governance / Sec. 9 Proposals webpage](#); and, where applicable, the study committee’s Merger Report and proposed Articles of

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<sup>78</sup> Like the Elmore-Morristown UUSD, the Windsor / West Windsor UUSD did not meet eligibility requirements for any of the Legislature’s voluntary merger programs. As a result, it is not automatically exempt from State Board-required merger under the final statewide plan. Windsor / West Windsor did not submit a Section 9 Proposal separate from its merger report (which served the dual function of a Sec. 9 Proposal for all of the SU’s districts) or participate in a Conversation, and the Agency did not prepare a Snapshot for the new UUSD. Instead, for more information, see the Windsor / West Windsor Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board and the voters, which can be accessed through the [School Governance / Merger Activity webpage](#).

Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#).



## VII. Adjustment of SU Boundaries

Act 46 requires the State Board to “publish on the Agency’s website its order merging and realigning districts and supervisory unions where necessary.” The Board’s authority to require districts to merge their governance structures into unified union school districts derives solely from Act 46 and must occur, if at all, in the final statewide plan. In contrast, the State Board has had independent authority for decades to alter the boundaries of supervisory unions either on its own initiative or at the request of one or more districts. 16 V.S.A. § 261. Section 261(a) provides in part that the State Board:

may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

As a result, the State Board can redraw SU boundaries as part of its final statewide plan or at some point in the future, or both.

In its statewide plan, the State Board will have no choice but to make SU boundary changes in a few regions of the State in order to effectuate district merger. For example, if the State Board chooses to merge the Sheldon District with the Franklin Northeast PreK-8 UUSD, then it will need to redraw SU boundaries so that the town of Sheldon lies within the Franklin Northeast SU. Similarly, merger of the Cabot and Danville District would require the adjustment of SU boundaries.

In addition, The State Board may choose to use its authority to designate a new UUSD as a Supervisory District, (“SD”) a single-district SU, pursuant to § 261(c). For example, if the State Board requires the Missisquoi Valley Union School District and its three member town elementary school districts to merge, then Board might determine that the new UUSD is “large enough to support the planning and administrative functions of a supervisory union.”

Some existing SUs are very small – arguably too small to “support the planning and administrative functions” of an SU in an efficient and sustainable manner. The State Board recently addressed this issue when it redrew the boundaries of the Blue Mountain SU and the Orange East SU and made the Blue Mountain Union School District a member district of the Orange East SU, effectively eliminating the Blue Mountain SU. It was for this and other reasons that the State Board granted the requests of several voluntarily-created UUSDs during the last year to adjust SU boundaries, thereby eliminating an additional four SUs.

In other instances, it would be helpful to realign SU boundaries so that they align with the boundaries of career technical center regions, Agency of Human Services Districts, or counties. This would not be an easy or even possible task, however. For example, the CTE regions, AHS Districts, and county lines do not align with each other. In addition, many of their lines intersect existing and potential UUSDs.

In many regions where the State Board might find it desirable to redraw SU boundaries, there are one, two, or even more new unified school districts that are very recently operational or are still transitioning to full operations on either July 1, 2018 or July 1, 2019. Any UUSD created by

the final statewide plan on November 30, 2018 is required to be fully operational by July 1, 2019. Not only is transitioning to and beginning operations as a new UUSD time consuming and complex, but creation of these new relationships might reveal alliances and natural partnerships with other districts that are not apparent now. This suggests that the State Board may want to delay redrawing SU boundaries.

For different reasons, the State Board will want to require SU boundary changes in order to create more sustainable planning and administrative service units in many regions of the State. The Secretary proposes, however, that the State Board decline to make any SU changes in its statewide plan other than those that are necessary to effectuate a merger required in the plan. The State Board could then revisit the question of SU boundary lines in the coming months and years, perhaps beginning talks with districts in the spring of 2019 and meeting on a regular basis with them thereafter to remain apprised of the progress of mergers and other activity.

Even if the State Board chooses to issue decisions sooner that require SU boundary changes, either in the statewide plan or pursuant to § 261, the Secretary suggests that the State Board consider requiring that the changes be effective no sooner than July 1, 2020, unless the districts affected request that it occur sooner.

In no particular order of significance, and with the recognition that some of the following are incompatible, some of the SU boundary adjustments that the State Board might want to consider might include:

- Eliminating the Grand Isle SU and assigning the three districts to two different SUs
- Assigning the St Johnsbury District to the Caledonia Central SU or the Kingdom East SD
- Eliminating the Orleans Southwest SU by, for example, assigning
  - The Craftsbury District to the Orleans Central SU
  - The Wolcott District to the Lamoille South SU
  - The Hazen Union, Lakeview Union, and their member districts to the Caledonia Central SU
- Redrawing SU boundaries around the Barre SU, Montpelier-Roxbury SD, Twinfield UUSD, and Washington Central SU into one or more SUs
- Assigning the Thetford District to the White River Valley SU
- Creating an SU with the Thetford, Strafford, Sharon, Norwich, and Rivendell Interstate Districts as members
- Creating an SU with the districts of the Windsor Central SU and the Two Rivers SU
- Creating one SU with the Hartford and Hartland Districts as members and another SU with the Springfield, Windsor/West Windsor, and Weathersfield Districts as members
- Assigning the districts of the Windham Northeast SU to another SU
- Assigning the Arlington and Sandgate Districts to the Bennington-Rutland SU
- Assigning the Stratton District to the Bennington-Rutland SU or the Winhall District to the Windham Central SU
- Assigning the Stamford District and/or the Searsburg District to the Southwest VT SU
- Assigning all or some of the districts in the Windham Southwest SU to the Windham Central SU
- Assigning the Marlboro District to the Windham Southeast SU or the Vernon District either to the Windham Central SU or the Windham Southwest SU

## APPENDICES

- A. New Unified Union School Districts Voluntarily Created July 1, 2015 – June 30, 2018
- B. Maps
  - Merger Activity as of June 1, 2018
  - Technical Center Regions
  - Agency of Human Services Regions
- C. January 2018 – Secretary of Education’s Report to the Legislature
- D. Memorandum from the Governor, Legislative Leaders, and the State Board of Education Chair dated April 4, 2018
- E. List of Topics Provided to Superintendents to prepare for Section 10 Conversations
- F. “Snapshot” of Each Section 9 Proposal and Section 10 Conversation
- G. Common Data Points for Each District Submitting a Section 9 Proposal