

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the title and before the summary and inserting the following:

**Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** certain financial barriers have been identified that may delay the implementation of the school district reorganization law, Public Law 2007, chapter 240, Part XXXX; and

**Whereas,** reorganization planning committees are engaged in negotiating proposed reorganization plans that, upon approval of the Commissioner of Education, are expected to be submitted to voters in affected municipalities across the State on or before June 10, 2008; and

**Whereas,** the removal of these financial barriers can reasonably be expected to enable reorganization planning committees to successfully negotiate and submit proposed reorganization plans in a timely manner; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

## **PART A**

**Sec. A-1. 20-A MRSA §1305-C,** as enacted by PL 2007, c. 240, Pt. XXXX, §11, is amended to read:

### **§ 1305-C. Mandatory budget validation and cost center summary budget form**

Notwithstanding any other law, school administrative district budgets developed after January 1, 2008 must conform to the format and referendum procedures for regional school units as set forth in sections 1305-A and 1305-B1485 and 1486. A school administrative district is deemed to be a regional school unit solely for the purpose of developing a budget pursuant to sections 1485 and 1486.

**Sec. A-2. 20-A MRSA §1452,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

### **§ 1452. Application of general law; core functions of a regional school unit**

Notwithstanding any provision of law to the contrary, schools operated by the regional school units established in accordance with this chapter are the official schools of the participating municipalities. The provisions of general law relating to public education apply to these schools. State funds for public schools must be paid directly to the treasurer of a regional school unit. The core functions for which a regional school unit is responsible include without limitation:

**1. Employment of superintendent.** Employment and discharge of a superintendent pursuant to section 1001, subsection 3 and chapter 101, subchapter 2;

**2. Performance of business functions.** Administration of accounting, payroll, financial management, purchasing insurance and auditing;

**3. Special education administration.** Administration of special education duties of school administrative units under chapter 303;

**4. Transportation.** Administration of transportation;

**5. Core curriculum.** Adoption of a core curriculum, standardized testing and assessments aligned with the system of learning results established in section 6209;

**6. Budget.** Adoption of the regional school unit budget;

**7. Reporting.** Reporting required by state or federal law or regulation;

**8. Employment.** Functioning as the employer of all employees working within the regional school unit for collective bargaining purposes and for all other purposes, including but not limited to those contained in section 1464, in Title 26, chapter 9-A and in all state and federal laws regulating the rights and duties of employers and employees;

**9. School calendar.** Establishment of a common school calendar, subject to local variations permitted by the regional school unit board; and

**10. Adoption of policies.** Adoption of policies for all schools in the regional school unit pursuant to section 1001, subsection 1-A, except that the local school committee may adopt policies not in conflict with the regional school unit policies.

**Sec. A-3. 20-A MRSA §1461-A** is enacted to read:

**§ 1461-A. Transitional powers and duties of initial regional school unit board**

As used in this section, unless the context indicates otherwise, "regional school unit board" means the initial regional school unit board elected pursuant to section 1472-A. From the time of election of the regional school unit board to July 1st of the regional school unit's first operational year, the regional school unit board shall establish interim rules of procedures and shall elect officers who shall serve until officers are elected at a meeting following the operational date of the regional school unit. The regional school unit board's powers and duties during this period are governed by this section.

**1. Selection of superintendent.** The regional school unit board shall select a superintendent for the regional school unit in accordance with section 1051 to carry out the duties specified in section 1055. During the interim period, the salary, office and other expenses of the superintendent, as well as the costs of the regional school unit board, including insurance, must be allocated to the school administrative units by the cost-sharing formula established in accordance with section 1481-A and included in the reorganization plan for the regional school unit.

**2. Budget preparation and approval.** The regional school unit board shall prepare the annual budget for the first operational year of the regional school unit in time for its presentation to and consideration by the regional school unit board in accordance with subchapter 4. Specific duties may be assigned to existing personnel with the approval of the employing school administrative unit. The regional school unit board shall complete the budget development process and recommend a budget for consideration by the legislative body responsible for final budget approval and the residents of the regional school unit. The budget format, approval procedures and assessments for the regional school unit's first operational year budget must be in accordance with this chapter.

**3. Authorization.** The regional school unit board is authorized to take all other actions provided under state law to prepare the regional school unit to become operational on July 1st for the first operational year, including the authority to open and maintain accounts, to incur expenses to be allocated among the regional school unit's member school administrative units in accordance with the reorganization plan for the regional school unit and to file applications for school construction projects and revolving renovation fund loans and other available funding.

**4. Fiscal agent.** The regional school unit board is authorized to expend start-up funds for the regional school unit. A school administrative unit within the regional school unit may serve as a fiscal agent and may expend any start-up funds on behalf of the new regional school unit prior to the regional school unit's operational date without calling for a special meeting of the local legislative body.

**Sec. A-4. 20-A MRSA §1472, sub-§2, ¶C,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

C. A plan may not permit the voting power of any director to exceed by more than ~~2%~~5% the percentage of voting power the director would have if all 1,000 votes were apportioned equally among the directors.

**Sec. A-5. 20-A MRSA §1472-A** is enacted to read:

### **§ 1472-A. Election of initial regional school unit board**

**1. Election; interim secretary; duties.** Within 30 days of the issuance of a certificate of organization for the regional school unit by the state board pursuant to section 1461, subsection 7, the members of the school boards of the school administrative units within the regional school unit shall conduct a joint meeting for the purposes of electing an interim secretary of the regional school unit and determining a date for the election of the initial regional school unit board. The interim secretary shall notify the municipal officers of the member municipalities of the regional school unit of the date of the

election. The election must be conducted in accordance with section 1473, subsection 2, except that the election duties of the secretary and the regional school unit board must be performed by the interim secretary. The duties of the interim secretary include:

- A. Notifying the municipal officers of the date of the election;
- B. Furnishing nomination papers at least 10 days before the deadline for filing nomination papers;
- C. Receiving completed nomination papers in accordance with section 1473, subsection 2;
- D. Preparing and distributing election ballots in accordance with section 1473, subsection 2;
- E. Receiving the town clerk's certification of the results of the voting in each member municipality;
- F. Tabulating the town clerk's certification of the results of the voting in each member municipality;
- G. Accepting any recount petitions that may have been filed pursuant to section 1473, subsection 2, paragraph C; and
- H. Totaling the votes cast for each candidate and notifying the clerk in each municipality, the candidates and the commissioner of the final results of the voting and the names and addresses of the persons elected as directors.

**2. Initial meeting.** In accordance with section 1473, subsection 1, the clerk of each municipality within the regional school unit shall forward the names and addresses of the directors elected to represent that municipality to the state board with other data regarding their election as the state board may require. On receipt of the names and addresses of all of the directors, the state board shall set a time, place and date for the first meeting of the directors and give notice to the directors in writing, sent by registered or certified mail, return receipt requested, to the addresses provided by the municipalities.

**Sec. A-6. 20-A MRSA §1472-B** is enacted to read:

**§ 1472-B. Staggered initial terms**

Notwithstanding section 1471, subsection 2, the initial directors elected to a regional school unit board shall meet and draw lots for their term lengths as specified in this section.

**1. Municipalities with annual elections.** In municipalities with annual elections, 1/3 of the directors serve one-year terms, 1/3 of the directors serve 2-year terms and 1/3 of the directors serve 3-year terms. If the number of directors is not evenly divisible by 3, the first remaining director serves a 3-year term and the 2nd remaining director serves a 2-year term.

**2. Municipalities with biennial elections.** In municipalities with biennial elections, half of the directors serve 4-year terms and half of the directors serve 2-year terms. If the number of directors is not divisible by 2, the remaining director serves a 4-year term.

The directors shall serve their terms as determined under this section and any additional period until the next regular election of the municipalities. Thereafter, the directors' terms of office are as established in section 1471.

**Sec. A-7. 20-A MRSA §1478,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is repealed and the following enacted in its place:

**§ 1478. Local school committees**

**1. Formation.** A reorganization plan under section 1461 or a regional school unit board may authorize the formation of a local school committee for a member municipality established in accordance with chapter 111, subchapter 1.

**2. Delegation of functions.** A reorganization plan that has been approved in accordance with subchapter 2 or a regional school unit board may delegate a local school committee to perform any duties, functions and services other than those reserved to the regional school unit under subchapter 1. The core functions provided by a regional school unit pursuant to section 1452 may be supplemented at the expense of any member municipality.

**3. Budget responsibility.** A reorganization plan that has been approved in accordance with subchapter 2 or a regional school unit board may authorize a local school committee to present to the board a proposed budget for the local school in a form that is consistent with section 1485. The proposed local school budget must be submitted in time to be included in the budget for the regional school unit. Proposed expenditures that are not included in the regional school unit budget may be separately appropriated by the municipality to be expended by the regional school unit in accordance with the appropriation. Supplemental municipal appropriations for education are not subject to section 1486.

**4. Title to property.** School property overseen by a local school committee may be owned either by the municipality or by the regional school unit as long as there is a clear allocation of responsibilities for management of all of the school property in the regional school unit.

**Sec. A-8. 20-A MRSA §1481,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is repealed.

**Sec. A-9. 20-A MRSA §1481-A** is enacted to read:

**§ 1481-A. Finances**

**1. Apportionment of costs for regional school unit.** A regional school unit may raise money, in addition to the local contribution pursuant to section 15690, subsection 1, for establishing and maintaining public schools, erecting buildings and providing equipment for educational purposes. The additional costs of operating a regional school unit must be shared among all municipalities within the regional school unit by the same local share percentages for each municipality resulting from the determination of the local contribution under section 15688.

**2. Existing cost-sharing agreement.** Notwithstanding subsection 1, a cost-sharing agreement in existence on June 7, 2007 that was adopted pursuant to Public Law 2005, chapter 2 or pursuant to a private and special law remains in existence unless the parties to the agreement modify or terminate the agreement:

- A. As part of a reorganization to regional school units under this chapter; or
- B. As a result of a negotiated agreement between the parties to the cost-sharing agreement.

**3. Method included in reorganization plan.** Notwithstanding subsection 1, a regional school unit may use a method of cost sharing that was included in a reorganization plan developed pursuant to section 1461 or Public Law 2007, chapter 240, Part XXXX, section 36 as long as the method complies with this subsection.

A. The costs of operating a regional school unit must be shared among all municipalities within the unit in one of the following ways.

(1) Under a property valuation method, municipalities in a unit shall share costs in the same proportion as each municipality's property fiscal capacity as defined in section 15672, subsection 23 is to the unit's property fiscal capacity.

(2) Under an alternate method of cost sharing, municipalities in a unit shall share costs based on:

(a) The number of resident pupils in each town;

(b) The property fiscal capacity of each member municipality as defined in section 15672, subsection 23;

(c) Any combination of divisions (a) and (b); or

(d) Any other factor or combination of factors that may, but need not, include divisions (a) or (b).

B. A process of amending the cost-sharing formula must be included in the reorganization plan.

Notwithstanding any provision of law to the contrary, a cost-sharing agreement in existence on June 7, 2007 that was adopted pursuant to Public Law 2005, chapter 2 or pursuant to a private and special law may not be construed to preempt the formation of a regional school unit under this chapter. Notwithstanding any provision of law to the contrary, a cost-sharing agreement between 2 or more municipalities in existence on June 7, 2007 that was adopted prior to June 7, 2007 may not be construed to preempt the formation of a regional school unit under this chapter.

Notwithstanding any provisions of law to the contrary, a municipality within a regional school unit may raise money and direct the spending of the funds to any school within the regional school unit.

**Sec. A-10. 20-A MRSA §1482-A** is enacted to read:

**§ 1482-A. Budget meeting**

A regional school unit board shall hold a regional school unit budget meeting at a time it determines.

**1. Warrant.** The budget meeting must be called by a warrant. The warrant must:

A. Be signed by a majority of the regional school unit board;

B. Specify the time and place of the meeting;

C. Include the proposed school budget and other articles the regional school unit board chooses to place before the voters, excluding authorization to borrow money for school construction purposes;

D. Specify the state and local shares of the state-local allocation and local leeway and additional expenditures without state participation; and

E. Be directed to a resident of the regional school unit by name ordering the resident to notify all voters within the regional school unit to assemble at the time and place appointed.

**2. Notice.** An attested copy of the warrant must be posted by the person to whom it is directed in some conspicuous public place in each of the municipalities within the regional school unit at least 7 days before the meeting. The person who gives notice of the meeting shall make a return of the posting on the warrant stating the manner of notice in each municipality and the time when it was given.

**3. Requested articles.** If requested by a written petition of at least 10% of the number of voters voting for the gubernatorial candidates in the last gubernatorial election in each municipality within the regional school unit, the regional school unit board shall place specific articles, not in conflict with existing state statutes, in the warrants for consideration at the next annual regional school unit budget meeting. To be included in the warrant, a petition must be received by the regional school unit board at least 15 days before the date set for the budget meeting. When placed on the warrant, the articles must be considered before action relating to the appropriation of money for the operation of schools may be taken.

**Sec. A-11. 20-A MRSA §1482-B** is enacted to read:

**§ 1482-B. Annual budget meeting procedures**

The following procedures must be used at a regional school unit annual budget meeting.

**1. Election of moderator.** The secretary of the regional school unit board or the chair of the regional school unit board when the secretary is absent shall open the annual budget meeting and call for the election of a moderator, receive and count votes for the moderator and swear in the moderator.

**2. Appointing ballot clerks.** The moderator shall appoint from the certified voting list the ballot clerks necessary for the efficient operation of the annual budget meeting. The moderator shall swear in the clerks.

**3. Budget consideration.** The superintendent of the regional school unit shall thoroughly explain the budget. The voters must have an opportunity to be heard. The voters may change only items dealing with:

- A. The expenses necessary to operate the regional school unit;
- B. Appropriations for the reserve fund; and
- C. Appropriations for the contingency fund and school construction purposes.

**4. Approval.** A majority vote of those voters present and voting is necessary for the approval of the annual budget.

**5. Voting lists.** Registration of voters for the annual budget meeting must be held in each member municipality in accordance with Title 21-A, section 122.

- A. Prior to the annual budget meeting, the municipal clerks of the member municipalities shall supply to the regional school unit board certified corrected copies of the registered voters of their municipalities.
- B. The certified corrected copies under paragraph A must be used in determining the voters who are eligible to vote at the annual budget meeting.

**6. Written ballot.** An article must be voted on by written ballot if at least 10% of those present and voting vote to use a written ballot. The department, in consultation with municipal and school officials and with organizations representing those officials, shall develop and distribute guidelines to assist regional school unit annual budget meeting moderators in explaining and implementing this subsection.

**Sec. A-12. 20-A MRS §1506, sub-§1, ¶A,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

- A. "Existing debt" means any bond, note, loan agreement, lease-purchase agreement or other debt instrument issued prior to July 1, ~~2008~~1st of the first operational year of the new unit for the purposes of funding public schools, or for refinancing such debt, that remains outstanding at the time of a reorganization pursuant to this chapter. "Existing debt" does not include routine payables or commercial contract obligations.

**Sec. A-13. 20-A MRS §1506, sub-§4,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:



**4. Debt of original education units.** After July 1, 2008, 1st of the first operational year of the new unit for each original education unit with existing debt that has reorganized into a new unit, if the new unit has not agreed to assume liability to pay that existing debt, the regional school unit board shall serve as agent for purposes of that existing debt and has full authority to:

- A. Sue and be sued in the name of the original education unit with respect to the existing debt;
- B. Determine the debt service due each fiscal year on any existing debt;
- C. As applicable, allocate to each member of the original education unit the member's share of the annual debt service for the existing debt of the original education unit in addition to each member's share of costs of the new unit;
- D. Collect the allocation for debt service on the existing debt from the original education unit or, as applicable, from each member of the original education unit in addition to each member's share of costs of the new unit;
- E. Pay the debt service on the existing debt of the original education unit when due; and
- F. Take all other actions necessary and proper with respect to the existing debt.

Allocations between members of the original education unit to pay the debt service for the existing debt must be made on the basis of the cost-sharing formula of the original education unit in effect on July 1, 2007, as applied to the year of allocation. In the case of state-subsidized debt service, the provisions of subsection 3 apply. Amounts to pay the debt service on the existing debt of the original education units must be included in the budget that the regional school unit board of a new unit submits for approval. If the original education unit is divided between different new units that have not agreed to assume liability to pay the existing debt, the commissioner shall require that the reorganization plan of one of those new units provide for that new unit to serve as agent for purposes of the existing debt of the original education unit. That new unit, as agent, has the authority provided by this subsection, except that the new unit shall notify the other new units containing members of the original education unit of the amounts they must assess and collect from their members who were members of the original education unit, and those other new units shall perform the functions in subsection 4, paragraphs C and D with respect to their members, and shall pay the appropriate amounts over to the new unit serving as agent.

**Sec. A-14. 20-A MRSA §1512, sub-§6,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

**6. Multiple municipalities.** If a school proposed for closure is an ~~elementary~~ school that serves students from more than one municipality, the article set forth in subsection 1 must be submitted to the voters in each of the municipalities that sent all elementary students from that municipality to the school. If the article is approved by a majority of the voters in each of the municipalities, the school is not closed and the municipalities share in the costs under this section in the same proportion as they share the current operating costs of the school.

**Sec. A-15. 20-A MRSA §1701-C**, as enacted by PL 2007, c. 240, Pt. XXXX, §16, is amended to read:

**§ 1701-C. Mandatory budget validation and cost center summary budget form**

Notwithstanding any other law, community school district budgets developed after January 1, 2008 must conform to the format and referendum procedures for regional school units as set forth in sections 1701-A and 1701-B1485 and 1486. A community school district is deemed to be a regional school unit solely for the purpose of developing a budget pursuant to sections 1485 and 1486.

**Sec. A-16. 20-A MRSA §2303**, as amended by PL 1987, c. 737, Pt. C, §§52 and 106 and PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**§ 2303. Additional school committee members**

Notwithstanding section 2302, a municipality may vote at its annual meeting to have 5up to 7 members on the school committee.

**1. Vote.** The municipality may vote to have a 5-member board expand its school committee at:

A. Its annual meeting; or

B. At aA special town meeting held at least 30 days before the annual meeting, if a municipality has accepted Title 30-A, section 2528, relative to secret ballot.

**2. Election of additional members.** The municipality may, at its annual meeting, elect by ballot 3 additional school committee members to serve with the 2 members whose terms have not expired.

**Sec. A-17. 20-A MRSA §2307**, as enacted by PL 2007, c. 240, Pt. XXXX, §21, is amended to read:

**§ 2307. School budgets**

Notwithstanding any other law, municipal school budgets developed after January 1, 2008 must follow the same school budget requirements as regional school units pursuant to chapter 103-A, except as described in subsections 1 and 2. A municipal school unit is deemed to be a regional school unit solely for the purpose of developing a budget pursuant to chapter 103-A.

**1. Budget meeting.** In charter municipalities the budget meeting required by section 1485, subsection 3 must be a meeting of the municipal council or other municipal legislative body established by the charter with authority to approve the budget.

**2. Municipal charter.** In charter municipalities where the municipal charter confers upon a municipal council or other municipal legislative body the authority to determine the total amount of the school budget and confers upon the school committee or school board the authority to direct the expenditure of those funds for school purposes, the municipal council or other municipal legislative body

shall determine the total amount of the school budget to be submitted to a budget validation referendum and the school committee or school board shall determine the allocation of the approved school budget among the cost centers of the cost center summary budget format.

**Sec. A-18. 20-A MRSA §5203, sub-§4**, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

**4. Exception; no elementary school.** A school administrative unit that neither maintains an elementary school nor contracts for elementary school privileges pursuant to chapter 115 shall pay the tuition, in accordance with chapter 219, at the public school or the approved private school of the parent's choice at which the student is accepted.

**Sec. A-19. 20-A MRSA §5204, sub-§4**, as amended by PL 1985, c. 797, §32, is further amended to read:

**4. No secondary school.** ~~Secondary students whose parents reside in a~~A school administrative unit which~~that neither maintains a secondary school nor contracts for secondary school privileges may attend a private school approved for tuition purposes, a public school in an adjoining unit which accepts tuition students, or a school approved for tuition purposes in another state or country upon permission of officials of the receiving school. The school administrative unit where the students' parents reside shall pay tuition in the amount up to the legal tuition rate as defined in chapter 219~~pursuant to chapter 115 shall pay the tuition, in accordance with chapter 219, at the public school or the approved private school of the parent's choice at which the student is accepted.

**Sec. A-20. 20-A MRSA §6051, sub-§1, ¶C**, as enacted by PL 1985, c. 797, §36, is amended to read:

C. A determination of whether or not the annual financial ~~report~~data submitted to the department is correct;

**Sec. A-21. 20-A MRSA §6051, sub-§4**, as amended by PL 2005, c. 683, Pt. A, §25, is further amended to read:

**4. Initial report to commissioner.** On or before ~~December~~November 1st, the school board shall provide the commissioner with:

C. Written determination of whether or not proper budgetary controls are in place;

D. A written determination of whether or not the annual financial ~~report~~data submitted to the department is correct, including submission of an audited reconciliation of the annual financial ~~report~~data prepared and certified by the auditor; and

E. A written determination as to whether the school administrative unit has complied with applicable provisions of the Essential Programs and Services Funding Act.

**Sec. A-22. 20-A MRSA §6051, sub-§6**, as enacted by PL 2001, c. 344, §9, is amended to read:

**6. Report to commissioner.** Within 96 months after the end of the audit period, the school board shall provide the commissioner with:

- A. A copy of the audit report;
- B. Accountability of all revenues and expenditures;
- C. Written assurance that the audit has been conducted in accordance with applicable state and federal laws relating to financial and compliance audits; and
- D. Any other information that the commissioner may require.

**Sec. A-23. 20-A MRSA §15688, sub-§3-A, ¶B-1,** as enacted by PL 2007, c. 240, Pt. XXXX, §30, is repealed.

**Sec. A-24. 20-A MRSA §15688, sub-§3-A, ¶C,** as amended by PL 2007, c. 240, Pt. XXXX, §30, is further amended to read:

C. For a school administrative district, community school district or regional school unit composed of more than one municipality, the unit's contribution to the total cost of education is the lesser of:

(1) The total cost as described in subsection 1; and

(2) The sum of the totals calculated for each member municipality pursuant to paragraph B, subparagraph (2); ~~plus the total calculated pursuant to paragraph B-1 if applicable.~~

**Sec. A-25. 20-A MRSA §15689, sub-§1-B** is enacted to read:

**1-B. Adjustments to state contributions to member municipalities in regional school units.** The minimum state allocation provisions of subsection 1, paragraph B are applicable for each case in which the school administrative units in existence prior to the operational date of the new regional school unit received an adjustment under subsection 1, paragraph B for fiscal year 2007-08 or fiscal year 2008-09. For each regional school unit eligible under this subsection, the minimum state allocation provisions of subsection 1, paragraph B are applicable for each member municipality that was a member of the eligible school administrative units in existence prior to the operational date of the new regional school unit.

**Sec. A-26. PL 2007, c. 240, Pt. XXXX, §36, sub-§6, ¶A-1** is enacted to read:

A-1. Notwithstanding the requirements of paragraph A, the Commissioner of Education may authorize a unit to serve 1,200 or fewer students but not less than 1,000 students in an isolated rural community if the proposed regional school unit meets at least one of the following criteria:

(1) The proposed regional school unit comprises 3 or more school administrative units in existence prior to July 1, 2008;

(2) The member municipalities of the proposed regional school unit are surrounded by approved regional school units and there are no other school administrative units available to join the proposed regional school unit; or

(3) The member municipalities of the proposed regional school unit include 2 or more isolated small schools that are eligible for an isolated small school adjustment pursuant to the Maine Revised Statutes, Title 20-A, section 15683, subsection 1, paragraph F.

In cases where the Commissioner of Education denies the creation of a regional school unit that serves 1,200 or fewer students but not less than 1,000 students, the school administrative units may appeal to the State Board of Education.

**Sec. A-27. Delay of budget validation referendum process for fiscal year 2008-09.**

Notwithstanding the Maine Revised Statutes, Title 20-A, sections 1305-C, 1701-C and 2307 and the provisions of Title 20-A, section 1486, subsections 1 to 3, the use of the budget validation referendum in regional school unit budgets is delayed until the development of school budgets after January 1, 2009 for 2009-2010 school budgets. The municipal school unit's municipal officers or the governing body of a school administrative district or community school district shall determine whether the school administrative unit may use the budget validation referendum process for their 2008-2009 school budgets.

**Sec. A-28. Retroactivity.** Those sections of this Part that amend the Maine Revised Statutes, Title 20-A, sections 1305-C, 1701-C and 2307 apply retroactively to January 1, 2008.

## PART B

**Sec. B-1. PL 2007, c. 240, Pt. XXXX, §36, sub-§11** is amended to read:

**11. Result of disapproval at January 2008 referendum.** A school administrative unit that rejects a proposed reorganization plan at the January 15, 2008 referendum or at a subsequent referendum on or before ~~November 4, 2008~~January 15, 2009 may restart the process to form a regional school unit with the same or other school administrative units and may seek assistance from the Department of Education to prepare another reorganization plan.

A. Subsequent reorganization plans must meet the same requirements as for reorganization plans filed prior to the January 2008 referendum, except that the timelines are adjusted to reflect a July 1, 2009 reorganization date.

B. The penalties set forth in Title 20-A, section 15696 apply to any school administrative unit that fails to approve a reorganization plan on or before ~~November 4, 2008~~January 15, 2009 and to implement that plan by July 1, 2009.

**Sec. B-2. PL 2007, c. 240, Pt. XXXX, §36, sub-§12** is amended to read:

**12. Reformulation of SAD as RSU.** Not later than ~~December 1, 2008~~February 15, 2009, the Commissioner of Education shall notify any school administrative district that has not voted to form a regional school unit on or before ~~November 4, 2008~~January 15, 2009 that the school administrative district must be recreated as a regional school unit under Title 20-A, chapter 103-A, effective July 1, 2009.

Notwithstanding any other provision of law, a school administrative district may be changed to a regional school unit upon notice to the State Board of Education without dissolving the school administrative district.

**Sec. B-3. PL 2007, c. 240, Pt. XXXX, §42, first ¶** is amended to read:

**Sec. XXXX-42. Transfer of property and assets; regional school units approved after January 15, 2008.** This section applies to a regional school unit that is approved after January 15, 2008 and before ~~November 5, 2008~~ January 16, 2009.

**Sec. B-4. PL 2007, c. 240, Pt. XXXX, §43** is amended to read:

**Sec. XXXX-43. Operational date and transfer of authority.**

**1. Operational date.** A regional school unit board of directors becomes operational on the date set by the State Board of Education as provided in the Maine Revised Statutes, Title 20-A, chapter 103-A.

**2. Transfer of governing authority; regional school units approved prior to January 16, 2008.** This subsection applies to regional school units approved prior to January 16, 2008. The regional school unit board of directors, on the date established in subsection 1, shall assume responsibility for the management and control of the public schools and programs within the school administrative units in existence prior to July 1, 2008 that are within the regional school unit. Those school administrative units in existence prior to July 1, 2008, on the date established in subsection 1, have no further responsibility for the operation or control of the public schools and programs within the school administrative unit except those pursuant to section 1481.

**3. Transfer of governing authority; regional school units approved after January 15, 2008.** This subsection applies to regional school units approved after January 15, 2008 and before ~~November 5, 2008~~ January 16, 2009. The regional school unit board of directors, on the date established in subsection 1, shall assume responsibility for the management and control of the public schools and programs within the school administrative units in existence prior to July 1, 2009 that are within the regional school unit. Those school administrative units in existence prior to July 1, 2009, on the date established in subsection 1, have no further responsibility for the operation or control of the public schools and programs within the school administrative unit except those pursuant to section 1481.

**4. Transfer of school accounts.** Notwithstanding Title 20-A, section 15004 or any charter of a municipal school unit, school administrative district or community school district, the balance remaining in the school accounts of the former municipal school unit, school administrative district or community school district within the regional school unit must be paid to the treasurer of the regional school unit and verified through the annual audit process pursuant to Title 20-A, chapter 221, subchapter 2. The balance from each of the former municipal school unit, school administrative district or community school district must be used to reduce that unit's or district's local contribution to the regional school unit. Payment may be made in equal monthly installments during the implementation year.

**5. Transfer of teachers and employees.** Except as limited by paragraph A, for regional school units approved prior to January 16, 2008, all teachers and school employees who are employed by a participating school administrative unit on June 30, 2008 must be transferred to and employed by the regional school unit as of July 1, 2008. Except as limited by paragraph A, for regional school units

approved after January 15, 2008 and before ~~November 5, 2008~~January 16, 2009, all teachers and school employees who are employed by participating school administrative units on June 30, 2009 must be transferred and employed by the regional school unit as of July 1, 2009. Except as limited by paragraph B, the regional school unit shall assume all of the legal obligations and duties that the participating school administrative units owed to their employees, including but not limited to those obligations and duties arising under federal law, state law, collective bargaining agreements and individual employment contracts. It is the intent of this Part to neither decrease nor increase the rights and benefits of transferred employees or the employer. The regional school unit shall also maintain and honor any agreements, contracts or policies regarding the rights and benefits of retirees and former employees created by a participating school administrative unit that is dissolved as a result of its inclusion within a regional school unit.

A. For regional school units approved prior to January 16, 2008, teachers or other employees whose employment terminates by application of law or contract or by action of a participating school administrative unit before July 1, 2008 may not be transferred. For regional school units approved after January 15, 2008 and before ~~November 5, 2008~~January 16, 2009, teachers or other employees whose employment terminates by application of law or contract or by action of a participating school administrative unit before July 1, 2009 may not be transferred.

B. Teachers and other employees who are transferred to the regional school unit prior to the completion of the applicable probationary period for their position have the length of their probationary period calculated from the date of their most recent date of employment by the participating school administrative unit.

**6. Collective bargaining.** The following provisions apply:

A. On July 1, 2008 for regional school units approved prior to January 16, 2008 and on July 1, 2009 for regional school units approved after January 15, 2008 and before ~~November 5, 2008~~January 16, 2009, the regional school unit board of directors shall assume all of the obligations, duties, liabilities and rights of the participating school administrative units for all purposes under Title 26, chapter 9-A. The regional school unit is considered a single employer. Notwithstanding any other provision of law, the responsibilities of the regional school unit include:

- (1) Continued recognition of all bargaining agents that represented any bargaining units of employees who were employed by a participating school administrative unit, pending completion of merger proceedings described in this section;
- (2) Assumption and continued observance of all collective bargaining agreements between such bargaining agents and a participating school administrative unit, which agreements continue in effect for the remainder of their unexpired term unless the bargaining agent and regional school unit mutually agree otherwise; and
- (3) Collective bargaining for an initial or successor collective bargaining agreement in any bargaining unit in which a collective bargaining agreement is not in effect on the operational date and for any interim agreement that may be required to align expiration dates in a regional school unit-wide bargaining unit, as described in this subsection.

B. As early as possible but no later than August 31, 2011 for regional school units approved prior to January 15, 2008 and no later than August 31, 2012 for regional school units approved after January 15, 2008 and before ~~November 2, 2008~~ January 16, 2009, all bargaining units must be structured on a regional school unit-wide basis. Bargaining units that existed in the participating school administrative units shall merge in accordance with the procedures and criteria in this section. Merger into regional school unit-wide bargaining units is not subject to approval or disapproval of employees.

(1) Merger into regional school unit-wide bargaining units must be completed according to the schedule contained in this subsection, and no later than the latest expiration date of any collective bargaining agreement that was in effect on the operational date, which covered any employees in the merged unit.

(2) There must be one unit of teachers and, to the extent they are currently included in bargaining units, other certified professional employees, excluding principals and other administrators.

(3) Any additional bargaining units in a regional school unit must be structured as follows:

(a) In the initial establishment of such units, units must be structured primarily on the basis of the existing pattern of organization, maintaining the grouping of employee classifications into bargaining units that existed prior to the creation of the regional school unit and avoiding conflicts among different bargaining agents to the extent possible.

(b) In the event of a dispute regarding the classifications to be included within a regional school unit-wide bargaining unit, the current bargaining agent or agents or the regional school unit may petition the Maine Labor Relations Board to determine the appropriate unit in accordance with this section and Title 26, section 966, subsections 1 and 2.

(4) When there is the same bargaining agent in all bargaining units that will be merged into a regional school unit-wide bargaining unit, the units must be merged as of the operational date, and the regional school unit shall recognize the bargaining agent as the representative of the merged unit.

(5) When all bargaining units that will be merged into a regional school unit-wide bargaining unit are represented by separate local affiliates of the same state labor organization, the units must be merged as of the operational date. The identity of the single affiliate that will be designated the bargaining agent for the merged unit must be selected by the existing bargaining agents and the state labor organization. Upon completion of the merger and designation of the bargaining agent and notification by the state organization to the regional school unit, the regional school unit shall recognize the designated bargaining agent as the representative of employees in the merged unit. If necessary, the parties will then execute a written amendment to any collective bargaining agreement then in effect to change the name of the bargaining agent to reflect the merger.

(6) Where there are bargaining units that will be merged into a regional school unit-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be merged as of the operational date as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for merger of separate local affiliates of the same state labor



organization described in subparagraph (5) must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent election must be conducted by the Maine Labor Relations Board pursuant to subparagraph (8).

(7) When there are unexpired collective bargaining agreements with different expiration dates in the merged bargaining units described in subparagraphs (4), (5) and (6), all contracts must be honored to their expiration dates unless mutually agreed to otherwise by the public employer and the bargaining agent. Collective bargaining agreements must be bargained on an interim basis in any merged bargaining unit so that all collective bargaining agreements expire on the same date.

(8) When bargaining units with different bargaining agents must be merged into a single regional school unit-wide bargaining unit pursuant to this subsection, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967, except as modified in this subparagraph.

(a) A petition for an election to determine the bargaining agent must be filed with the Maine Labor Relations Board by any of the current bargaining agents or the regional school unit.

(b) The petition must be filed not more than 90 days prior to the expiration date of the agreement having the latest expiration date among the bargaining units that will be merged into the regional school unit-wide bargaining unit.

(c) The election ballot may contain only the names of the bargaining agents of bargaining units that will be merged into the regional school unit-wide bargaining unit and the choice of "no representative," but no other choices. No showing of interest is required from any such bargaining agent other than its current status as representative.

(d) The obligation to bargain with existing bargaining agents continues from the operational date until the determination of the bargaining agent of the regional school unit-wide bargaining unit under this subsection; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond the expiration date of the agreement having the latest expiration date among the bargaining units that will be merged into the regional school unit-wide bargaining unit that was in effect on the operational date.

(e) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the regional school unit-wide bargaining unit filed pursuant to this subsection.

(f) The bargaining units must be merged into a regional school unit-wide bargaining unit as of the date of certification of the results of the election by the Maine Labor Relations Board, or the expiration of the collective bargaining agreements in the unit, whichever occurs later.

C. After the merger of bargaining units into a regional school unit-wide bargaining unit, the bargaining agent of a regional school unit-wide bargaining unit and the regional school unit shall engage in collective bargaining for a collective bargaining agreement for the regional school unit-wide bargaining unit. In the collective bargaining agreement for each regional school unit-wide

bargaining unit, the employment relations, policies, practices, salary schedules, hours and working conditions throughout the regional school unit must be made uniform and consistent as soon as practicable.

(1) In the event that the parties are unable to agree upon an initial regional school unit-wide collective bargaining agreement, they must use the dispute resolution procedures pursuant to Title 26, section 965 to resolve their differences.

**7. Superintendent contracts.** The contracts between the superintendents and school administrative units within the regional school unit are transferred to the regional school unit board of directors. The regional school unit board of directors shall determine the superintendents' duties within the regional school unit.

## PART C

**Sec. C-1. 20-A MRSA §1, sub-§16-A** is enacted to read:

**16-A. Local education unit.** "Local education unit" means a state-approved unit of school governance responsible for operating or constructing public schools, but is not responsible for administration of public schools, that is a member of a regional school union. A local education unit is a school administrative unit for all purposes except the core functions identified in section 2001 and any additional functions delegated to the regional school union committee as authorized in section 2001.

**Sec. C-2. 20-A MRSA §1, sub-§24,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**24. Public school.** "Public school" means a school that is governed by a school board of a school administrative unit or local education unit and funded primarily with public funds.

**Sec. C-3. 20-A MRSA §1, sub-§24-B,** as enacted by PL 2007, c. 240, Pt. XXXX, §3, is amended to read:

**24-B. Regional school unit.** "Regional school unit" means ~~the~~ a state-approved unit of school administration as established pursuant to chapter 103-A.

**Sec. C-4. 20-A MRSA §1, sub-§24-D** is enacted to read:

**24-D. Regional school union.** "Regional school union" means a state-approved unit of school administration composed of local education units as established pursuant to chapter 108.

**Sec. C-5. 20-A MRSA §1, sub-§24-E** is enacted to read:

**24-E. Regional school union committee.** "Regional school union committee" means the governing body with statutory powers and duties for a regional school union.

**Sec. C-6. 20-A MRSA §1, sub-§26,** as amended by PL 2007, c. 240, Pt. XXXX, §5, is further amended to read:

**26. School administrative unit.** "School administrative unit" means the state-approved unit of school administration and includes a municipal school unit, school administrative district, community school district, regional school unit, regional school union or any other municipal or quasi-municipal corporation responsible for operating or constructing public schools, except that it does not include a career and technical education region. Beginning July 1, 2009, "school administrative unit" means the state-approved unit of school administration and includes only a municipal school unit ~~and~~, a regional school unit formed pursuant to chapter 103-A ~~and a regional school union formed pursuant to chapter 108.~~

**Sec. C-7. 20-A MRSA §1, sub-§28,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**28. School board.** "School board" means the governing body with statutory powers and duties for a school administrative unit or a local education unit.

**Sec. C-8. 20-A MRSA §1, sub-§29,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**29. School committee.** "School committee" means the governing body with statutory powers and duties for a municipal school unit or a municipal local education unit.

**Sec. C-9. 20-A MRSA c. 108** is enacted to read:

## **CHAPTER 108**

### **REGIONAL SCHOOL UNIONS**

#### **SUBCHAPTER 1**

#### **GENERAL PROVISIONS**

#### **§ 2001. Regional school union**

**1. Formation.** A regional school union composed of school administrative units may be formed pursuant to a reorganization plan. A municipal school unit, a school administrative district, a community school district or any other municipal or quasi-municipal corporation responsible for operating or constructing public schools, except a career and technical education region, may be a local education unit within a regional school union.

**2. Laws governing local education units.** Except as otherwise provided in this chapter, a local education unit that is part of a regional school union is subject to the laws set forth in this Title governing that local education unit, including but not limited to laws governing budget format and budget adoption procedures.

**3. Regional school union committee.** The governing body of a regional school union is the regional school union committee, which must be made up of representatives from the school boards of member local education units and must be apportioned in accordance with one-person, one-vote principles.

**4. Core functions.** The regional school union committee's core functions, which may not be delegated to a local education unit except as provided in this subsection, are:

- A. Employment and discharge of a superintendent pursuant to section 1001, subsection 3 and chapter 101, subchapter 2;
- B. Administration of accounting, payroll, financial management, purchasing insurance and auditing;
- C. Administration of special education duties of local education units under chapter 303;
- D. Administration of transportation;
- E. Adoption of a core curriculum, standardized testing and assessment aligned with the system of learning results established in section 6209;
- F. Preparation of the regional school union budget;
- G. Reporting required by state or federal law, rule or regulation;
- H. Functioning as the employer of all employees performing the core functions and performance of any additional functions delegated to the regional school union;
- I. The establishment of a common school calendar, except that local education units may adopt local variations from the regional school union calendar;
- J. Adoption of common policies for all schools in the regional school union pursuant to section 1001, subsection 1-A, except that the local education units may adopt local variations from the regional school union policies; and
- K. Apportionment of costs of the regional school union among its local education units in accordance with a cost-sharing formula established by its approved reorganization plan and certification to the treasurer of each local education unit and to the commissioner of the amounts to be paid.

**5. Delegation of additional functions.** A reorganization plan or the legislative bodies of the local education units in a regional school union may delegate functions in addition to those set out in subsection 4 to the regional school union committee.

**6. Title to property.** A reorganization plan may provide that title to real and personal property in local education units may be either transferred to the regional school union or retained by the local education unit, as long as the plan clearly allocates the responsibilities for the management of school property under section 1001, subsection 2 between the regional school union committee and the school board of the local education unit.

## **§ 2002. Regional school union committee**

**1. Formation.** In accordance with an approved reorganization plan, the school boards of the local education units composing a regional school union shall form a regional school union committee. The school board of a local education unit in a regional school union shall designate one or more of its members to serve on the regional school union committee as provided in the reorganization plan.

**2. Term of office.** The term of office of regional school union committee members must be determined by the approved reorganization plan.

**3. Compensation.** Compensation for attendance at a regional school union committee meeting must be between \$10 and \$25 per meeting for each member. Whenever the committee members recommend increasing their compensation, they shall submit their recommendation to the voters in the regional school union for approval.

A. On notification by the regional school union committee, the municipal officers shall, at the next regular or special town meeting or city election, prepare a warrant or ballot for the purpose of voting on the proposed increase. The question must be in the following form.

"Do you favor paying a member of the regional school union committee compensation at the rate of \$..... for each meeting that member attends?"

B. An increase in compensation is not effective unless approved by a majority of the voters voting on the question set out in paragraph A.

**4. Secretary and treasurer.** The superintendent serves as secretary and treasurer of the regional school union committee and shall give a bond to the regional school union committee of a sum and with the sureties as the regional school union determines. The bond must be deposited with the chair of the regional school union committee. The expense of that bond must be paid by the regional school union. The bond premium, compensation paid committee members for attendance at meetings and expenses of the regional school union must be paid from funds of the regional school union by the treasurer on vouchers presented and certified by the superintendent and approved by a majority of the regional school union committee or a finance committee duly elected annually by that committee. Notwithstanding section 1055, a superintendent of a regional school union may designate another person with State of Maine administrative certification to perform the duties of secretary of the school board of a local education unit.

**5. Oath of office.** Before a newly elected member's first regional school union committee meeting, that member must take the following oath or affirmation before a dedimus justice or notary public.

"I ..... do swear that I will faithfully discharge to the best of my abilities the duties incumbent on me as a regional school union committee member of (name of regional school union) according to the Constitution of Maine and laws of this State, so help me God."

A. A member shall take the oath or affirmation and return a certificate documenting that the oath or affirmation has been taken to the secretary of the regional school union committee to place in the regional school union committee records.

B. If a member is conscientiously scrupulous of taking an oath, the word "affirm" may be used instead of "swear" and the words "this I do under the pains and penalty of perjury" may be used instead of the words "so help me God."

**6. Election of officers.** The regional school union committee shall elect a chair and vice-chair and other officers as may be necessary.

### **§ 2003. Methods of apportionment**

**1. Method B: weighted votes.** Under the method of representation referred to as "Method B," members cast weighted votes.

A. The reapportionment committee under section 2024 shall apportion 1,000 votes among all the members of the committee. The ratio of the number of votes cast by the members representing a school administrative unit or municipality in relation to the number 1,000 must be the same ratio to the nearest whole number as the population of the school administrative unit or municipality is in relation to the population of all the school administrative units and municipalities in the regional school union, as determined by the latest Federal Decennial Census or Federal Estimated Census.

B. To ensure the use of whole numbers, the 1,000 votes apportioned among the committee members may not be increased or decreased by more than 5 votes.

C. A plan may not permit the voting power of any member to exceed by more than 5% the percentage of voting power the member would have if all 1,000 votes were apportioned equally among the members.

D. For a local education unit represented by 2 or more members, the votes cast by them must be divided equally among them.

**2. Method D: other.** Under the method of representation referred to as "Method D," members are selected by any method other than that set forth in subsection 1 that meets the requirements of the one-person, one-vote principle.

### **§ 2004. Appropriation for regional school union expenses**

Local education units shall appropriate for regional school union expenses their share of the costs of the regional school union in accordance with a cost-sharing formula established by its approved reorganization plan. The proportion to be paid by a local education unit must be paid out of the appropriation made for the support or maintenance of public schools.

### **§ 2005. Rules**

The state board may adopt rules to carry out this chapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## **SUBCHAPTER 2**

### **FORMATION OF REGIONAL SCHOOL UNION**

#### **§ 2011. Formation of a regional school union; reorganization planning and approval**

The residents of 2 or more school administrative units may form a regional school union that is a body politic and corporate pursuant to this section.

**1. Notice of intent.** Each school administrative unit shall file with the commissioner a notice of intent to engage in planning and negotiations with other school administrative units for the purpose of developing a reorganization plan to form a regional school union under this chapter. The commissioner shall respond to each notice of intent providing information regarding the process and whether the intended action complies with the requirements of this chapter.

**2. Reorganization planning committee.** The school administrative units that intend to engage in planning and negotiation to create a regional school union shall form a reorganization planning committee.

**A.** For each proposed regional school union, the commissioner shall provide guidelines for the formation of a reorganization planning committee including representation from the school administrative units included in the notice of intent, member municipalities and members of the general public who are residents of the proposed regional school union. The guidelines must include roles and responsibilities of the committee, timelines for submission of the plan, the format for reporting the reorganization plan and evaluation criteria for approval of the plan.

**B.** Reorganization planning committees shall hold one or more public meetings to gather input from community members and to determine the sentiment of the public.

**3. Submission of plans.** Each school administrative unit shall submit to the commissioner its proposed reorganization plan for consolidation into a regional school union that meets the requirements of paragraphs A and B.

**A.** A reorganization plan must include:

**(1)** The local education units to be included in the proposed reorganized regional school union;

**(2)** The size, composition and apportionment of the governing body;

**(3)** The method of voting of the governing body;

(4) The powers and duties of the regional school union;

(5) The disposition of real and personal school property;

(6) The disposition of existing school indebtedness and lease-purchase obligations;

(7) The assignment of school personnel contracts, school collective bargaining agreements and other school contractual obligations;

(8) The disposition of existing school funds and existing financial obligations, including undesignated fund balances, trust funds, reserve funds and other funds appropriated for school purposes;

(9) A transition plan that addresses the development of a budget for the first school year of the regional school union and interim personnel policies;

(10) Documentation of the public meeting or public meetings held to prepare or review the reorganization plan;

(11) An explanation of how units that approve the reorganization plan will proceed if one or more of the proposed members of the regional school union fail to approve the plan;

(12) An estimate of the cost savings to be achieved by the formation of a regional school union and how these savings will be achieved;

(13) A method of sharing regional school union costs among its member local education units and a process of amending the cost-sharing formula; and

(14) Such other matters as the governing bodies of the school administrative units in existence on the effective date of this chapter may determine to be necessary.

B. In order for the plan to be approved by the commissioner, the governing bodies of school administrative units must work within the parameters set out in this paragraph.

(1) The proposed regional school union must serve not fewer than 2,500 students, except when circumstances relating to the following factors justify an exception:



(a) Geography, including physical proximity and the size of the current school administrative units;

(b) Demographics, including student enrollment trends and the composition and nature of communities in the regional school union;

(c) Economics, including existing collaborations to be preserved or enhanced and opportunities to deliver commodities and services to be maximized;

(d) Transportation;

(e) Population density; or

(f) Other unique circumstances including the need to preserve existing or developing relationships, meet the needs of students, maximize educational opportunities for students and ensure equitable access to rigorous programs for all students.

(2) When circumstances justify an exception to the size requirement of 2,500 students set forth in subparagraph (1), the regional school union must serve as close to 2,500 students as possible and, except for coastal islands and schools operated by tribal school committees, it may not serve fewer than 1,200 students, except that, the commissioner may authorize a regional school union to serve fewer than 1,200 students but not less than 1,000 students in isolated rural communities if the proposed regional school union meets one of the following criteria:

(a) The proposed regional school union comprises 3 or more school administrative units in existence prior to July 1, 2008;

(b) The member local education units of the proposed regional school union are surrounded by approved regional school units and there are no other school administrative units available to join the proposed regional school union; or

(c) The member local education units of the proposed regional school union include 2 or more isolated small schools that are eligible for an isolated small school adjustment pursuant to section 15683, subsection 1, paragraph F.

In cases in which the commissioner denies the creation of a regional school union that has fewer than 1,200 but more than 1,000 students, the school administrative units may appeal to the state board.

(3) The plan must provide for a core curriculum for all students from kindergarten to grade 12 and must include at least one publicly supported secondary school.

(4) The plan must include provisions for implementing section 2002.

(5) The plan may not displace teachers or students or close any schools existing and operating during the school year immediately preceding reorganization.

**4. Review and approval of plans.** If the commissioner finds that a plan for reorganization meets the requirements of this chapter, the commissioner shall notify the municipalities and school administrative units, and they shall proceed with referendum as set out in subsections 5 and 6.

**5. Referendum on reorganization plan.** The municipal officers of each municipality in a proposed reorganized school administrative unit shall place a warrant article substantially as follows on the ballot of a municipal referendum in accordance with the referendum procedures applicable to the school administrative unit of which the municipality is a member.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee to reorganize (insert names of affected school administrative units) into a regional school union, with an effective date of (insert date)?

Yes No"

The following statement must accompany the article:

"Explanation:

A "YES" vote means that you approve of the (municipality or school administrative unit) joining the proposed regional school union, which will be provided with the following incentives:

More favorable consideration in approval and funding of school construction projects; and

Eligibility for additional financial support for reorganization costs.

A "NO" vote means that you do not approve of the (municipality or school administrative unit) joining a regional school union, which will result in the existing (municipality or school administrative unit) receiving the following penalties:

Less favorable consideration in approval and funding of school construction projects; and

A reduction in state funding of education costs in an amount estimated to be \$..... for school year 20.... and \$..... for school year 20...., with ongoing penalties for continued failure to join an approved regional school union. Reductions in state education funding will result in an increased mill rate expectation to meet the local share of education costs."

**6. Results of referendum.** Each school administrative unit shall report the results of the referendum to the department following the referendum election.

A. A reorganization plan is approved by a kindergarten to grade 12 school administrative district or kindergarten to grade 12 community school district if the majority of votes cast in the district is in favor of approval of the plan.

B. A reorganization plan is approved by the member municipalities of a community school district that does not provide public education for the entire span of kindergarten to grade 12 if the majority of votes cast in the member municipalities is in favor of approval of the plan. Approval results in all member municipalities joining the regional school union.

C. A municipal school unit, including a municipal school unit that is a member of a school union, approves a reorganization plan if the majority of the votes cast in that municipality is in favor of approval of the plan.

If a reorganization plan is approved by all of the affected school administrative units, or by the school administrative units considered sufficient under the proposed reorganization plan, the commissioner shall file notice of approval of the regional school union with the state board.

**7. Certificate of organization.** If a plan or revised plan for reorganization has been approved by the commissioner and approved by voters at the referendum, the state board shall issue a certificate of organization to the school administrative units that are reorganized into a regional school union.

## **§ 2012. Transitional powers and duties of the regional school union committee**

Within 30 days of the issuance of a certificate of organization for the regional school union by the state board, the school boards of the local education units shall appoint members of the regional school union committee in accordance with the approved reorganization plan. As used in this section, unless the context otherwise indicates, "regional school union committee" means the initial regional school union committee appointed pursuant to section 2002. From the time of appointment of the regional school union committee to July 1st of the regional school union's first operational year, the regional school union committee shall establish interim rules of procedure and shall elect officers who shall serve until officers are elected at a meeting following the operational date of the regional school union. The regional school union committee's powers and duties during this period are governed by this section.

**1. Selection of superintendent.** The regional school union committee shall select a superintendent for the regional school union in accordance with section 1051 to carry out the duties specified in section 1055. During the interim period, the salary, office and other expenses of the superintendent, as well as the costs of the regional school union committee, including insurance, must be allocated to the local education units by the cost-sharing formula included in the reorganization plan for the regional school union.

**2. Budget preparation and approval.** The regional school union committee shall prepare the annual budget for the first operational year of the regional school union in accordance with section 2001. Specific duties may be assigned to existing personnel with the approval of the employing school administrative unit. The regional school union committee shall complete the budget development process and approve a regional school union budget. The budget format and assessments for the regional school union's first operational year budget must be in accordance with this chapter.

**3. Authorization.** The regional school union committee is authorized to take all other actions provided under state law to prepare the regional school union to become operational on July 1st for the first operational year, including the authority to open and maintain accounts, to incur expenses to be allocated among the regional school union's member local education units in accordance with the reorganization plan for the regional school union and to file applications for school construction projects and revolving renovation fund loans and other available funding.

**4. Fiscal agent.** The regional school union committee is authorized to expend start-up funds for the regional school union. A local education unit within the regional school union may serve as a fiscal agent and may expend any start-up funds on behalf of the new regional school union prior to the regional school union's operational date without calling for a special meeting of the local legislative body.

### **§ 2013. Transfer of property and assets**

Upon the formation of a regional school union pursuant to this subchapter, the transfer of school property and assets is governed by this section.

**1. Regional school union committee.** Except as otherwise provided in a reorganization plan, a regional school union committee established in this chapter shall determine what school property of the municipal school units in existence prior to the operational date of the new regional school union and of the school administrative units in existence prior to the operational date of the new regional school union is necessary to carry out the functions of the regional school union and shall request in writing that the school board of each such school administrative unit or the municipal officers transfer title of their school property and buildings to the regional school union committee.

**2. Transfer.** The municipal officers and school boards contacted pursuant to subsection 1 shall make the transfer of property and assets notwithstanding any other provision in the charter of the school administrative unit or municipality.

### **§ 2014. Operational date and transfer of authority**

**1. Operational date.** A regional school union committee becomes operational on the date set by the state board as provided in this chapter.

**2. Transfer of governing authority.** The regional school union committee, on the date established pursuant to subsection 1, shall assume responsibility for the governance of the regional school union.

**3. Transfer employees.** Except as limited by paragraph A, all school employees who are employed by a school administrative unit that becomes a local education unit within the regional school union and employees of a school administrative unit performing the core functions and any delegated functions of a regional school union as identified in the reorganization plan on the day prior to the date established pursuant to subsection 1 must be transferred to and employed by the regional school union as of the date established pursuant to subsection 1. Those employees not transferred to the regional school union continue to be employed by the local education units under the same terms and conditions under which they were employed prior to the operational date. The regional school union shall assume all of the legal obligations and duties that the participating school administrative units owed to the transferred employees, including but not limited to those obligations and duties arising under federal law, state law, collective bargaining agreements and individual employment contracts. It is the intent of this chapter to neither decrease nor increase the rights and benefits of transferred employees, the employees employed by the local education units or the employer.

A. Employees whose employment terminates by application of law or contract or by action of a participating school administrative unit before the date in subsection 1 may not be transferred.

B. Teachers and other employees who are transferred to the regional school union prior to the completion of the applicable probationary period for their position have the length of their probationary period calculated from the date of their most recent date of employment by the participating school administrative unit.

**4. Superintendent contracts.** The contracts between the superintendents and any school union whose members become local education units within the regional school union and school administrative units that become local education units within the regional school union are transferred on the date established pursuant to subsection 1 to the regional school union committee. The regional school union committee shall determine the superintendents' duties within the regional school unit.

### **§ 2015. Addition of a school administrative unit to an existing regional school union**

A school administrative unit not originally a member of a regional school union may be included in the regional school union in accordance with this section.

**1. Notice of intent.** A school administrative unit shall file with the commissioner a notice of intent to engage in planning and negotiations to join with a regional school union under this chapter. The commissioner shall respond to each notice of intent and provide information regarding the process and whether the intended action complies with the requirements of this chapter.

**2. Process to join a regional school union.** A school administrative unit may join an existing regional school union in the same manner required for the formation of a regional school union under section 2011, except that section 2011, subsections 5, 6 and 7 do not apply.

**3. Referendum for a school administrative unit to join an existing regional school union.** The municipal officers of each municipality in a proposed reorganized school administrative union shall place a warrant article substantially as follows on the ballot of a municipal referendum in accordance with the referendum procedures applicable to the school administrative unit of which the municipality is a member.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee for school administrative unit (insert name of affected school administrative unit) to join the regional school union (insert name of regional school union), with an effective date of (insert date)?"

Yes No"

The following statement must accompany the article:

"Explanation:

A "YES" vote means that you approve of the (insert name of municipality or school administrative unit) joining the proposed regional school union. The financial penalties under the Maine Revised Statutes, Title 20-A, section 15696 to the existing school administrative unit will no longer apply."

**4. Referendum on the admission of an additional school administrative unit to an existing regional school union.** If the vote to join a regional school union under subsection 3 was in the affirmative, the existing regional school union shall call a regional school union referendum to vote on the following article.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee for school administrative unit (insert name of affected school administrative unit) to join the regional school union (insert name of regional school union), with an effective date of (insert date)?"

Yes No"

The following statement must accompany the article:

"Explanation:

A "YES" vote means that you approve of the (insert name of municipality or school administrative unit) joining the proposed regional school union. The financial penalties under the Maine Revised Statutes, Title 20-A, section 15696 will no longer apply to the existing school administrative unit."

The referendum must be conducted in accordance with the referendum procedures applicable to regional school units, except that the duties of the regional school unit board must be performed by the regional school union committee.

**5. Results of referendum.** A school administrative unit shall report the results of the referendum to the department following the referendum election.

A. For a referendum conducted pursuant to subsection 3:

(1) A reorganization plan is approved by a kindergarten to grade 12 school administrative district or kindergarten to grade 12 community school district if the majority of votes cast in the district is in favor of approval of the plan;

(2) A reorganization plan is approved by a regional school union if the majority of votes cast in the regional school union is in favor of approval of the plan;

(3) A reorganization plan is approved by the member municipalities of a community school district that does not provide public education for the entire span of kindergarten to grade 12 if the majority of votes cast in the member municipalities is in favor of approval of the plan. Approval results in all member municipalities joining the regional school union; and

(4) A municipal school unit, including a municipal school unit that is a member of a school union, approves a reorganization plan if the majority of the votes cast in that municipality is in favor of approval of the plan.

B. For a referendum conducted pursuant to subsection 4, a reorganization plan is approved by a regional school union if the majority of votes cast in the regional school union is in favor of approval of the plan.

If a reorganization plan is approved by the affected school administrative unit, the commissioner shall file notice of approval with the state board.

**6. Amended certificate of organization.** If a plan for reorganization has been approved by the commissioner and approved by voters at the referendum under subsections 3 and 4, the state board shall issue an amended certificate of organization to the reorganized regional school union.

### **SUBCHAPTER 3**

#### **Regional School Union Governance**

##### **§ 2021. Powers and duties**

The regional school union committee:

**1. Regional school union name.** May select an unofficial name for the regional school union;

**2. Finance committee.** May elect a finance committee of 3 or more members, who must be regional school union committee members;

**3. Bylaws.** Shall adopt bylaws for the regulation of the affairs of the regional school union committee and the conduct of its business; and

**4. Gifts.** May accept and receive money or other property, outright or in trust, for any specified benevolent or educational purpose. The regional school union committee shall comply with this subsection in accepting gifts.

A. If the regional school union committee receives written notice from a prospective donor or a representative of the donor of a proposed gift, the regional school union committee shall submit the matter to its next regular meeting or shall call a special meeting and shall, within 10 days after the meeting, send written notice to the prospective donor or representative of its acceptance or rejection.

B. If the gift is in trust, the regional school union committee shall cause the trust funds to be deposited or invested according to Title 30-A, chapter 223, subchapter 3-A.

(1) Unless prohibited by a trust instrument, the regional school union may treat any 2 or more trust funds as a single fund for the purposes of investment.

(2) After deduction for management expenses, any interest earned or capital gains realized must be prorated among the various trust funds.

(3) Property or securities included in the corpus of a trust fund must be retained where the trust instrument so provides.

(4) Unless otherwise specified in the trust instrument, only the annual income from the trust fund may be spent.

(5) If the regional school union fails to comply with the terms of the trust instrument, the trust fund is subject to reversion to the donor or the donor's heirs.

C. If the money or other property is a conditional gift for any specified benevolent or educational purpose, this paragraph applies.

(1) When the donor's part of the agreement respecting the execution of the conditional gift has been completed, the regional school union shall perpetually comply with, and may raise money to carry into effect, the conditions upon which it was made.



(2) Unless otherwise specified by its terms, a conditional gift of money must be deposited or invested according to Title 30-A, chapter 223, subchapter 3-A.

## **§ 2022. Quorum**

A majority of the regional school union committee in number and voting power constitutes a quorum.

## **§ 2023. Regional school union committee vacancies**

**1. Definition of vacancy.** A vacancy on a regional school union committee occurs:

A. When the term of office of a regional school union committee member expires;

B. When a regional school union committee member changes residency from the local education unit represented. Evidence that an individual is registered to vote in a municipality in a local education unit is prima facie evidence of that individual's residency;

C. On the death of a regional school union committee member; or

D. When a regional school union committee member resigns from the regional school union committee or from the school board of the local education unit the member represents.

In addition to paragraphs A, B, C and D, except in municipalities having a municipal charter, when a committee member is absent without excuse from 3 consecutive regular committee meetings, the regional school union committee may declare that a vacancy exists.

**2. Regional school union committee.** The regional school union committee shall notify the school board of the local education unit of a vacancy within 14 days after receiving notice of the vacancy.

**3. Filling vacancies.** A vacancy on a regional school union committee must be filled by the school board whose member vacated the regional school union committee seat within 30 days after receiving notice of the vacancy.

## **§ 2024. Reapportionment**

The commissioner shall determine the necessity for reapportionment.

**1. Duties of commissioner.** The commissioner shall determine if a regional school union is apportioned in accordance with the one-person, one-vote principle if:

A. The commissioner receives a request by the regional school union committee; or

B. The commissioner receives a petition signed by a number of regional school union voters equal to at least 10% of the voters in the regional school union who voted in the last gubernatorial election.

In addition to a determination initiated by a request pursuant to paragraph A or a petition pursuant to paragraph B, the commissioner may, of the commissioner's own accord, determine that a regional school union is not apportioned according to the one-person, one-vote principle.

The commissioner shall make a determination under paragraph A or B within 30 days of receiving the request or the petition.

**2. Awaiting census results.** If the commissioner receives a request within 12 months before a Federal Decennial Census or Federal Estimated Census, the commissioner may wait until after the new census figures are available to make a determination under subsection 1.

**3. Findings and order.** If the commissioner finds the regional school union representation is not apportioned in accordance with the one-person, one-vote principle, the commissioner, within 7 days of that decision, shall notify the superintendent of the regional school union of the finding and order the superintendent to notify the school board in each local education unit in the regional school union and the regional school union committee to create a reapportionment committee. The superintendent's notification must include the commissioner's notification, the information provided pursuant to subsection 6 and the time and place for the first meeting of the committee, which must be held not later than 20 days after the notification.

**4. Reapportionment committee membership.** The reapportionment committee consists of 2 members from each school board, chosen by the respective school boards.

**5. Quorum.** A majority of the reapportionment committee constitutes a quorum.

**6. Duties of commissioner.** The commissioner shall provide the superintendent of the regional school union with the most recent Federal Decennial Census or Federal Estimated Census figures for each local education unit in the regional school union and at least one recommended apportionment plan.

**7. Duties of the reapportionment committee.** The reapportionment committee shall:

A. Elect a chair and secretary and may adopt suitable rules of procedure;

B. Consider and by majority vote adopt a reapportionment plan including the method of representation, total number of members and number of members representing each local education unit; and

C. Within 90 days of the first meeting, send a report of its reapportionment plan to the state board for approval. It may, within the 90-day limit, submit alternative plans for apportionment.

**8. Commissioner approval.** The commissioner shall approve or disapprove the reapportionment committee plan under subsection 7 within 30 days of receiving it.

**9. Failure to gain commissioner approval.** If a reapportionment plan has not been adopted by the reapportionment committee or approved by the commissioner within the time limits of subsection 7, the commissioner shall prepare a suitable plan.

**10. Putting the approved plan into effect.** On approval of a reapportionment plan, the commissioner shall send a certified copy to the local education units and regional school union committee. The original reapportionment plan must be retained in the department files.

A. The reapportionment plan takes effect immediately upon approval. The reapportionment committee shall determine the terms of the members to be elected at the next annual municipal elections so as to comply with this chapter.

B. If the approved reapportionment plan requires a reduction of the number of members to be elected in a municipality, the reduction must be achieved in accordance with this paragraph.

(1) If possible, the reduction must be achieved by the voluntary resignation of one or more of the members.

(2) If the reduction cannot be achieved in accordance with subparagraph (1), all of the remaining existing members representing the local education unit shall choose by lot which members' terms must terminate.

C. If the approved reapportionment plan requires that additional members be elected in a local education unit, the local school committee shall fill the vacancies by appointment. A new member serves until a successor is elected and qualified at the next annual municipal election.

D. The reapportionment committee is dissolved after the approved reapportionment plan is implemented.

**11. Duties of present members during reapportionment.** The regional school union committee, during the reapportionment of its membership, serves as the legal representative of the regional school union until the reapportionment is completed. The committee shall carry out all business of the regional school union, including the borrowing of funds that may be required during the period of reapportionment.

**12. State board review of commissioner's decisions.** A regional school union committee or interested parties may request that the state board reconsider decisions made by the commissioner under this section. The state board has the authority to overturn a decision made by the commissioner. In exercising this power, the state board is limited by this section.

## **SUBCHAPTER 4**

### **Contracts**

#### **§ 2031. Bid procedure**

**1. Written bids.** Bids must be in writing, sealed with the outside envelope or wrapper plainly marked "Bid, not to be opened until (appropriate date)" and mailed to or filed with the superintendent.

**2. Time of opening.** A member of the regional school union committee or an employee of the regional school union may not open a bid until the appointed time.

**3. Public opening.** At the time and place stated in the public notice, and open to the public, all bids must be opened by the superintendent or, in the superintendent's absence or disability, by any member of the regional school union committee designated for the purpose by the chair of the regional school union committee.

**4. Reading.** If any citizens who are not members of the regional school union committee or employees of the regional school union are present or if any representatives of the press are present, bids must at the time of opening either be made available for examination by them or must be read aloud in a manner to be heard plainly by those in attendance.

### **§ 2032. Void contracts**

A contract made by the regional school union committee during the term of a member who is pecuniarily interested in that contract, either directly or indirectly, is void, unless the regional school union committee has advertised for sealed bids for that contract and that advertisement for sealed bids has been published at least 5 days prior to the date set for closing of bids in a newspaper having general circulation within the regional school union.

**Sec. C-10. Reorganization planning.** A regional school union, as established in the Maine Revised Statutes, Title 20-A, chapter 108, is deemed a regional school unit under Public Law 2007, chapter 240, Part XXXX, section 36 for all purposes including the goal for the number of regional units and the requirements with respect to the number of students in each regional unit. The Commissioner of Education shall apply the same criteria and shall allow the same exceptions for regional school unions as are applied to regional school units. A reorganization plan for a regional school union is also subject to the requirements of Public Law 2007, chapter 240, Part XXXX, section 36, subsection 6, paragraph F that the reorganization plan address how administrative functions, duties and noninstructional personnel will be reorganized so that the projected expenditures for system administration, transportation, special education and facilities and maintenance will not have an adverse impact on the instructional program. A reorganization plan for a regional school union is subject to the same approval and referendum requirements as provided in Public Law 2007, chapter 240, Part XXXX, section 36, subsections 8 and 9.

**Sec. C-11. Application.** Notwithstanding any provision of law to the contrary, this Part applies to school administrative units and reorganization planning committees that, on the effective date of this Part, are engaged in or are required to be engaged in school reorganization planning pursuant to Public Law 2007, chapter 240, Part XXXX.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.'

## SUMMARY

This amendment replaces the bill.

Part A of this amendment does the following.

1. It delays the implementation of the budget validation referendum process for school administrative districts, community school districts and municipal school units until fiscal year 2009-10 to coincide with the formation of the 2009-2010 school budgets for new regional school units that are organized pursuant to Public Law 2007, chapter 240, Part XXXX. The amendment also allows school administrative districts, community school districts and municipal school units the option of using the budget validation referendum process for the formation of 2008-2009 school budgets.

2. It clarifies the authorization provided to regional planning committees to negotiate a cost-sharing agreement for those costs of a proposed regional school unit that are in addition to the local contribution required pursuant to the Maine Revised Statutes, Title 20-A, section 15690.

3. It repeals a cross-reference to the unit of law that is repealed in the bill regarding the requirement that each municipality that is a member of a new regional school unit contribute a minimum of 2 mills of the municipality's property fiscal capacity to the total cost of education of the new regional school unit.

4. It includes language inadvertently left out of the bill regarding the requirement that the reorganization plan include a process for amending the cost-sharing formula.

5. It clarifies the roles of the municipal officers and the school committee for municipal school units whose municipal charters give authority to approve the school budget to the municipal officers and establishes the requirements for calling a budget meeting and the procedures for the budget meeting.

6. It clarifies the relationship between a regional school unit board and a local school that seeks to raise additional funds for an elementary school or a secondary school that is owned or managed by the member municipality. The amendment also removes 2 references to "elementary" schools in the school closure provisions to clarify that secondary schools are also subject to these requirements.

7. It permits the Commissioner of Education to authorize so-called "doughnut hole" school units that have 1,200 or fewer students and no other available reorganization partners to form a regional school unit that serves at least 1,000 students if these isolated, rural school units meet certain criteria.

8. It clarifies the assumption of existing debt that is transferred from an original education unit to a new regional school unit that is formed after July 1, 2008.

9. It provides regional school unit boards with the legal authority to receive and spend state and local funds, including funds for the election of regional school unit board members and to hire a superintendent prior to the operational date of the new regional school unit on July 1, 2009.

Under the existing law governing the reorganization of school administrative units, a referendum must be held on a proposed reorganization by November 4, 2008. Part B of this amendment changes the deadline by which a referendum must be held to January 15, 2009 and changes dates that are linked to the referendum date by the same amount of time.

Part C of this amendment authorizes regional school unions as an alternative to the regional school unit method of school reorganization. A regional school union must perform certain core functions,

which include employment of a superintendent, performance of all business functions, special education administration, transportation administration, adoption of a core curriculum and all state and federal reporting. A regional school union is formed in the same manner as a regional school unit by means of a reorganization plan prepared by a reorganization planning committee, with approval of the Commissioner of Education and approval at a referendum. Regional school unions are subject to the same requirements as regional school units with respect to minimum numbers of students, exceptions to minimum numbers of students, timelines for submission of reorganization plans, operational date and applicable penalties. School administrative units that form a regional school union become "local educational units" with no further responsibility for the administrative functions, which are taken over by the regional school union.

**FISCAL NOTE REQUIRED**  
**(See attached)**