

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 inserting after the title and before the enacting clause 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, there are obstacles preventing certain communities from complying with the state law on school administrative unit reorganization; and

Whereas, failure to comply with the law may result in penalties, in school administrative units' failing to benefit economically from administrative consolidation or in students' failing to benefit from the sharing of instructional resources, in a time of continuing reductions of state funding for education; and

Whereas, immediate enactment of this legislation is necessary to ensure that several initiatives are enacted to improve the laws governing the reorganization of school administrative units in the State; 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,'

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 20-A MRSA §1, sub-§26, ¶C, as enacted by PL 2007, c. 668, §1, is amended to read:

C. An alternative organizational structure as approved by the commissioner and approved by the voters, ~~with the alternative organizational structure serving as the school administrative unit for all its member entities for purposes of chapter 606-B and Public Law 2007, chapter 240, Part XXXX, section 36;~~

Sec. 2. 20-A MRSA §1, sub-§26, ¶G, as enacted by PL 2007, c. 668, §1, is amended to read:

G. A municipal school unit, school administrative district, community school district, regional school unit or any other quasi-municipal district responsible for operating public schools that forms a part of an alternative organizational structure approved by the commissioner.

Sec. 3. 20-A MRSA §1461, sub-§3, ¶B, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

B. In order for the plan to be approved by the commissioner, the governing bodies of school administrative units shall work within the following parameters.

(1) The proposed regional school unit must serve not fewer than 2,500 students, including, for purposes of this paragraph, students attending from the unorganized territory, except where circumstances relating to the following factors justify an exception:

- (a) Geography, including physical proximity and the size of the current school administrative unit;
- (b) Demographics, including student enrollment trends and the composition and nature of communities in the regional school unit;
- (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.

When circumstances justify an exception to the size requirement set forth in this subparagraph of 2,500 students, the unit must serve as close to 2,500 students as possible and in no case, except for coastal islands and schools operated by tribal school committees, may it serve fewer than 1,200 students, including, for purposes of this paragraph, students attending from the unorganized territory.

(2) The plan must provide comprehensive programming for all students from kindergarten to grade 12 and must include at least one publicly supported secondary school.

(3) The plan must be consistent with the policies set forth in section 1451.

(4) The plan may not displace teachers or students or close any schools existing and operating during the school year immediately preceding reorganization, except as permitted under section 1512.

(5) The plan must address how the school administrative unit will reorganize administrative functions, duties and noninstructional personnel so that the projected expenditures of the reorganized school administrative unit in the first year of operation during the school year immediately following reorganization for system administration, transportation, special education and facilities and maintenance will not have an adverse impact on the instructional program

Sec. 4. 20-A MRSA §1461, sub-§3, ¶C is enacted to read:

C. Notwithstanding paragraph B, subparagraph 1, the commissioner may approve:

(1) A regional school unit to serve fewer than 1,200 students but not less than 1,000 students in an isolated rural community, including, for purposes of this paragraph, students attending from the unorganized territory, if the proposed regional school unit meets at least one of the following criteria:

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

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

(c) 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 section 15683, subsection 1, paragraph F; and

(2) The formation of a regional school unit if the governing body or bodies of the proposed regional school unit demonstrate, in the notice of intent under subsection 1, that all reasonable and practical means of satisfying the requirements of subparagraph (1) and paragraph B, subparagraph (1) have been exhausted, and that approval is warranted based on the unique or particular circumstances of the unit or units.

In considering a request under this paragraph, the commissioner's decision must be based on, but is not limited to, the specific facts presented in the notice of intent and is applicable only to the specific school administrative units the decision concerns. If the commissioner denies approval of a regional school unit under this paragraph, the commissioner's decision constitutes final agency action and is not subject to appeal to the state board.

Sec. 5. 20-A MRSA §1461-B is enacted to read:

§ 1461-B. Alternative organizational structure

1. Notice of intent. A school administrative unit may 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 an alternative organizational structure in accordance with this section.

2. Organization; procedures and parameters. An alternative organizational structure must be organized in accordance with the procedures and parameters applicable to regional school units as set forth in section 1461.

3. Submission, review and approval of plans for an alternative organizational structure. A school administrative unit may submit a reorganization plan to the commissioner to form an alternative organizational structure in order to comply with this chapter.

A. The commissioner may designate a school administrative unit as part of an alternative organizational structure if the commissioner finds that the proposed alternative organizational structure will result in:

(1) Consolidation of system administration;

(2) Consolidation of special education administration, transportation administration and administration of business functions, including accounting, reporting, payroll, financial management, purchasing insurance and auditing;

(3) Adoption of a core curriculum and procedures for standardized testing and assessment aligned with the system of learning results established in section 6209;

(4) Adoption of a plan for both consistent school policies and school calendars; and

(5) Adoption of a plan for consistent collective bargaining agreements.

B. A plan for an alternative organizational structure may include a collaborative agreement under chapter 114 and must include an interlocal agreement under Title 30A, chapter 115. The plan must include procedures for conducting a kindergarten to grade 12 budget approval pursuant to paragraph C.

C. The budget procedures of member entities of an alternative organizational structure must conform to the format and referendum procedures set forth in sections 1485 and 1486 for regional school units. The budget of the alternative organizational structure must be approved at a meeting of the voters of all of the member entities conducted in accordance with the procedures applicable to a regional school unit budget meeting. The budget of an alternative organizational structure is not subject to a separate budget validation referendum as described in section 1486.

Upon the review and approval of the commissioner and the approval of the voters at a referendum, the commissioner may approve a plan to form an alternative organizational structure that meets the requirements set forth in this chapter.

4. Recognition as discrete school administrative units for subsidy purposes. In fiscal year 2011-12 and subsequent fiscal years, the member entities of an alternative organizational structure are recognized as discrete school administrative units for purposes of chapter 606B, unless the member entities of the alternative organizational structure include in the reorganization plan under subsection 3 their decision to be recognized by the department as a single school administrative unit for purposes of chapter 606B.

5. Recognition as school administrative unit for subsidy purposes; change. This subsection governs the procedure to alter the recognition of a school administrative unit that is an alternative organizational structure for subsidy purposes.

A. Notwithstanding the provisions of a reorganization plan under subsection 3 or interlocal agreement under Title 30A, chapter 115, the governing body of an alternative organizational structure that began operation on or before June 30, 2010 may vote to have its member entities recognized as discrete school administrative units for purposes of chapter 606B. Such a vote must be approved by the governing body of the alternative organizational structure and the commissioner prior to June 1st of the year prior to the allocation year.

B. If the member entities of an alternative organizational structure that requested in their reorganization plan to be recognized as a single school administrative unit pursuant to subsection 4 vote to be recognized as discrete school administrative units for purposes of chapter 606B, such a change must be approved by the governing body of the alternative organizational structure and the commissioner prior to June 1st of the year prior to the allocation year.

6. Withdrawal of a member entity. Notwithstanding chapter 103A, subchapter 2, for an alternative organizational structure approved by the commissioner and approved by the voters, the withdrawal provisions for member entities that were adopted as part of the reorganization plan under subsection 3 and interlocal agreement under Title 30A, chapter 115 govern the withdrawal of a member entity.

A. A member entity that withdraws from an alternative organizational structure pursuant to the reorganization plan approved by the commissioner under subsection 3 is not subject to penalties applicable to a nonconforming school administrative unit under section 15696 for 2 years after withdrawing from the alternative organizational structure.

B. A member entity that does not join a conforming school administrative unit within 2 years of withdrawal from an alternative organizational structure is subject to the penalties applicable to a nonconforming school administrative unit under section 15696.

C. The remaining member entity or entities within an alternative organizational structure from which a member entity withdraws are not subject to penalties applicable to a nonconforming school administrative unit under section 15696 for 2 years after the withdrawal of the member entity.

Sec. 6. 20-A MRSA §1464, sub-§2, ¶H, as amended by PL 2009, c. 107, §4, is further amended to read:

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

(1) 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.

(2) The petition must be filed not more than 90 days prior to ~~August 31, 2012~~the first August 31st occurring after the 3rd anniversary date of the operational date of the regional school unit established pursuant to section 1463, subsection 1.

(3) 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.

(4) The obligation to bargain with existing bargaining agents continues from the operational date established pursuant to section 1463, subsection 1 until the determination of the bargaining agent of the regional school unit-wide bargaining unit under this section; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond ~~August 31, 2012~~the first August 31st occurring after the 3rd anniversary date of the operational date of the regional school unit.

(5) 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 section.

(6) 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.

(7) Until ~~August 31, 2012~~the first August 31st occurring after the 3rd anniversary date of the operational date of the regional school unit, existing bargaining agents shall continue to represent the bargaining units that they represented on the day prior to the operational date of the regional school unit. If necessary, each bargaining agent and the regional school unit must negotiate an interim collective bargaining agreement to expire on ~~August 31, 2012~~the first August 31st occurring after the 3rd anniversary date of the operational date of the regional school unit.

(8) When there are 2 or more bargaining units in which there are employees who are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization that will be merged into a regional school unit-wide bargaining unit with one or more other bargaining units pursuant to the election procedures described in this paragraph, the bargaining units that are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization must merge as of the operational date. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph E must be followed if applicable.

Sec. 7. 20-A MRSA §1464, sub-§5 is enacted to read:

5. Bargaining units of employees of school unions. For purposes of section 1463, subsection 4 and this subsection, a school union that employed public employees, within the meaning of Title 26, section 962, subsection 6, who were represented by a bargaining agent on the day prior to the operational date of a regional school unit board of directors is considered to be a school administrative unit.

Sec. 8. 20-A MRSA §1464-A is enacted to read:

§ 1464-A. Collective bargaining in alternative organizational structures

1. Assumption of obligations, duties, liabilities and rights. On and after the operational date of an alternative organizational structure, teachers and other employees whose positions are transferred from a school administrative unit or school union to the alternative organizational structure and were included in a bargaining unit represented by a bargaining agent continue to be included in the same bargaining unit and represented by the same bargaining agent pending completion of the bargaining agent and bargaining unit merger procedures and bargaining for initial alternative organizational structure collective bargaining agreements covering alternative organizational structure employees, as described in this section. After employees become employees of the alternative organizational structure, the alternative organizational structure has the obligations, duties, liabilities and rights of a public employer pursuant to Title 26, chapter 9A with respect to those employees.

2. Structure of bargaining units. All bargaining units of alternative organizational structure employees must be structured on an alternative organizational structure-wide basis. Teachers and other school employees who are employed by the alternative organizational structure to provide consolidated services must be removed from the existing bargaining units of teachers and other employees who are employed by each member school unit and merged into units of alternative organizational structure employees. Merger into alternative organizational structure-wide bargaining units is not subject to approval or disapproval of employees. Formation of alternative organizational structure-wide bargaining units must occur in accordance with this subsection.

A. In each alternative organizational structure, there must be one unit of teachers if any teachers are employed by the alternative organizational structure, and, to the extent they are on the effective date of this paragraph included in bargaining units, other certified professional employees, excluding principals and other administrators.

B. Any additional bargaining units in an alternative organizational structure must be structured as follows.

(1) 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 alternative organizational structure and avoiding conflicts among different bargaining agents to the extent possible.

(2) In the event of a dispute regarding the classifications to be included within an alternative organizational structure-wide bargaining unit, the current bargaining agent or agents or the alternative organizational structure 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.

C. When there is the same bargaining agent in all bargaining units that will be merged into an alternative organizational structure-wide bargaining unit, the units must be separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable, and the alternative organizational structure shall recognize the bargaining agent as the representative of the merged unit.

D. When all bargaining units that will be separated and merged into an alternative organizational structure-wide bargaining unit are represented by separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable. The identity of a 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 labor organization to the alternative organizational structure, the alternative organizational structure shall recognize the designated bargaining agent as the representative of employees in the merged unit. If necessary, the parties shall 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.

E. When there are bargaining units that will be separated and merged into an alternative organizational structure-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 separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable, 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 separation and merger of separate local affiliates of the same state labor organization described in paragraph D 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 paragraph F.

F. When bargaining units with different bargaining agents must be merged into a single alternative organizational structure-wide bargaining unit pursuant to this section, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967 except as modified in this section.

(1) 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 alternative organizational structure.

(2) The petition must be filed not more than 90 days prior to the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.

(3) The election ballot may contain only the names of the bargaining agents of bargaining units that will be merged into the alternative organizational structure-wide bargaining unit and the choice of "no representative," but no other choices. A showing of interest is not required from any such bargaining agent other than its current status as representative.

(4) The obligation to bargain with existing bargaining agents continues from the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later, until the determination of the bargaining agent of the alternative organizational structure-wide bargaining unit under this section; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.

(5) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the alternative organizational structure filed pursuant to this section.

(6) The bargaining units must be merged into an alternative organizational structure-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.

(7) Until the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later, existing bargaining agents shall continue to represent the bargaining units that they represented on the day prior to the operational date of the alternative organizational structure. If necessary, each bargaining agent and the alternative organizational structure must negotiate interim collective bargaining agreements to expire the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.

(8) When there are 2 or more bargaining units in which there are employees who are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization that will be merged into an alternative organizational structure-wide bargaining unit with one or more other bargaining units pursuant to the election procedures described in this paragraph, the bargaining units that are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization must merge as of the operational date. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable.

3. Agent to engage in collective bargaining. After the merger of bargaining units in an alternative organizational structure, the bargaining agent of an alternative organizational structure-wide bargaining unit and the alternative organizational structure shall engage in collective bargaining for a collective bargaining agreement for the alternative organizational structure-wide bargaining unit. In the collective bargaining agreement for each alternative organizational structure-wide bargaining unit, the employment relations, policies, practices, salary schedules, hours and working conditions throughout the alternative organizational structure must be made uniform and consistent as soon as practicable. In the event that the parties are unable to agree upon an initial alternative organizational structure-wide collective bargaining agreement, the parties must use the dispute resolution procedures pursuant to Title 26, section 965 to resolve their differences.

4. Application of collective bargaining agreements. On and after the operational date of an alternative organizational structure, but before the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit, the wages, hours and working conditions of an employee of the alternative organizational structure who is in a bargaining unit and who is reassigned to a different position that is in a different bargaining unit but that upon the completion of the merger of bargaining units will be included in the same alternative organizational structure-wide bargaining unit must be determined by the terms of the collective bargaining agreement that applies to the position to which the employee is reassigned, except as provided in this subsection.

A. If the application of the collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the employee's wage or salary rate, the employee's wage or salary rate must be maintained at the rate the employee was paid immediately prior to the reassignment until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit or the applicable collective bargaining agreement requires a higher wage or salary rate for the employee, whichever occurs sooner.

B. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the amount that is paid by the alternative organizational structure for premiums for health insurance for the employee and the employee's dependents, the alternative organizational structure's payment must be maintained at the amount that was paid immediately prior to the reassignment until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit or the applicable collective bargaining agreement requires a higher payment, whichever occurs sooner.

C. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned provides for coverage under a different health insurance plan, the employee may elect to retain coverage under the health insurance plan in which the employee was enrolled immediately prior to reassignment if the eligibility provisions of the plan permit until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit.

Sec. 9. 20-A MRSA §1466 is enacted to read:

§ 1466. Withdrawal of a single municipality from a regional school unit

1. Petition. The residents of a municipality that has been a member of a regional school unit for at least 3 years may petition to withdraw from the regional school unit in accordance with this subsection.

A. Ten percent of the number of voters in the municipality who voted at the last gubernatorial election must sign the petition to withdraw from the regional school unit.

B. At least 10 days before the special election called pursuant to this paragraph, the municipal officers of the municipality within the regional school unit shall hold a posted or otherwise advertised public hearing on the petition. The municipal officers shall call and hold a special election in the manner provided for the calling and holding of town meetings or city elections to vote on the withdrawal from the regional school unit.

C. The petition to withdraw from the regional school unit must be approved by secret ballot by a majority vote of the voters present and voting before it may be presented to the regional school unit board and the commissioner. Voting in towns must be conducted in accordance with Title 30-A, sections 2528 and 2529, even if the towns have not accepted the provisions of Title 30-A, section 2528, and voting in cities must be conducted in accordance with Title 21-A.

For the purposes of this subsection, the 3-year period after which a petition to withdraw may be considered in a member municipality of a school administrative district that was reformulated as a regional school unit pursuant to Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12 is 3 years after the original operational date of the school administrative district; and the 3-year period after which a petition to withdraw may be considered in a member municipality of a school administrative district that did not reformulate as a regional school unit but that became a member entity of an alternative organizational structure is 3 years after the operational date of the alternative organizational structure.

2. Form. The article to be voted upon must be in substantially the following form:

"Article: Do you favor filing a petition for withdrawal with the board of directors of regional school unit (name of regional school unit) and with the Commissioner of Education, authorizing the withdrawal committee to expend \$ (insert amount) and authorizing the (municipal officers; i.e., selectpersons, town council, etc.) to issue notes in the name of the (name of the municipality) or otherwise pledge the credit of the (name of the municipality) in an amount not to exceed \$ (insert amount) for this purpose?

Yes No"

3. Notice of vote. If residents of the municipality vote favorably on a petition for withdrawal, the clerk shall immediately give written notice, by registered mail, to the secretary of the regional school unit and the commissioner that must include:

- A. The petition adopted by the voters, including the affirmative and negative votes cast; and
- B. An explanation by the municipal officers, stating to the best of their knowledge the reason or reasons why the municipality seeks to withdraw from the regional school unit.

4. Agreement for withdrawal; notice; changes in agreement; final agreement. The agreement for withdrawal must comply with this subsection.

A. The commissioner shall direct the municipal officers of the petitioning municipality to select representatives to a withdrawal committee as follows: one member from the municipal officers, one member from the general public and one member from the group filing the petition. The commissioner shall also direct the directors of the regional school unit board representing the petitioning municipality to select one member of the regional school unit board who represents that municipality to serve on the withdrawal committee. The municipal officer and the member of the regional school unit board serve on the withdrawal committee only so long as they hold their respective offices. Vacancies must be filled by the municipal officers and the regional school unit board. The chair of the regional school unit board shall call a meeting of the withdrawal committee within 30 days of the notice of the vote in subsection 3. The chair of the regional school unit board shall open the meeting by presiding over the election of a chair of the withdrawal committee. The responsibility for the preparation of the agreement rests with the withdrawal committee, subject to the approval of the commissioner. The withdrawal committee may draw upon the resources of the department for information not readily available at the local level and employ competent

advisors within the fiscal limit authorized by the voters. The agreement must be submitted to the commissioner within 90 days after the withdrawal committee is formed. Extensions of time may be granted by the commissioner upon the request of the withdrawal committee.

(1) The agreement must contain provisions to provide educational services for all students of the petitioning municipality within the regional school unit. The agreement must provide that during the first year following the withdrawal students may attend the school they would have attended if the petitioning municipality had not withdrawn. The allowable tuition rate for students sent from one municipality to another in the former regional school unit must be determined under section 5805, subsection 1, except that it is not subject to the state per pupil average limitation in section 5805, subsection 2.

(2) The agreement must establish that the withdrawal takes effect at the end of the regional school unit's fiscal year.

(3) The agreement must establish that the withdrawal will not cause a need within 5 years from the effective date of withdrawal for school construction projects that would be eligible for state funds. This limitation does not apply when a need for school construction existed prior to the effective date of the withdrawal or when a need for school construction would have arisen even if the municipality had not withdrawn.

(4) The agreement must establish how transportation services will be provided.

(5) The agreement must provide for administration of the new administrative unit, which should not include the creation of new supervisory units if at all possible.

(6) The agreement must make provision for the distribution of financial commitments arising from outstanding bonds, notes and any other contractual obligations that extend beyond the proposed date of withdrawal.

(7) The agreement must provide appropriately for the distribution of any outstanding financial commitments to the superintendent of the regional school unit.

(8) The agreement must provide for the continuation and assignment of collective bargaining agreements as they apply to the new or reorganized regional school unit for the duration of those agreements and must provide for the continuation of representational rights.

(9) The agreement must provide for the continuation of continuing contract rights under section 13201.

(10) The agreement must provide for the disposition of all real and personal property and other monetary assets.

(11) The agreement must provide for the transition of administration and governance of the schools to properly elected governing bodies of the newly created administrative unit and must provide that the governing body may not be elected simultaneously with the vote on the article to withdraw unless the commissioner finds there are extenuating circumstances that necessitate simultaneous elections.

B. Within 60 days of the receipt of the agreement, the commissioner shall either give it conditional approval or recommend changes. The changes must be based upon the standards set forth in paragraph A and the commissioner's findings of whether the contents of the agreement will provide for appropriate educational and related services to the students of the petitioning municipality and for the orderly transition of assets, governance and other matters related to the petitioning municipality and the regional school unit.

C. If the commissioner gives conditional approval of the agreement, the commissioner shall notify the regional school unit board and the municipal officers by registered mail of the time and place of a public hearing at least 20 days prior to the date set for the hearing to discuss the merits of the proposed agreement of withdrawal. The chair of the regional school unit board shall conduct the hearing.

(1) The regional school unit board shall post a public notice in each municipality of the time and location of the hearing at least 10 days before the hearing.

(2) Within 30 days following the hearing under this paragraph, the withdrawal committee shall forward the final agreement to the commissioner.

D. If the commissioner recommends changes to the agreement, the commissioner shall:

(1) Send the agreement back to the withdrawal committee for necessary corrections;

(2) Establish a maximum time within which to make the corrections; and

(3) Indicate that the corrected agreement must be returned to the commissioner for conditional approval before it goes to public hearing as set forth in paragraph C.

5. Date of municipal election; notice; warrant; polling hours. The date and time for voting is as set forth in this subsection.

A. The commissioner shall determine the date upon which the voters of the petitioning municipality must vote upon the agreement submitted to them. The election must be held as soon as practicable, and the commissioner shall attempt to set the date of the vote to coincide with a statewide election.

B. At least 35 days before the date set in paragraph A, the commissioner shall give written notice of the date by registered or certified mail to the town clerk or city clerk of the municipality petitioning to withdraw.

C. The town clerk or city clerk shall immediately notify the municipal officers upon receipt of the notice under paragraph B, and the municipal officers shall meet and immediately issue a warrant for a special town meeting or city election, as the case may be, to be held on the date designated by the commissioner. No other date may be used.

D. In a warrant under paragraph C, the municipal officers shall direct that the polls are to be open at 10 a.m. and remain open until 8 p.m.

6. Public hearing; voting procedures. The following requirements apply to the voting procedures.

A. At least 10 days before the election, the municipal officers shall hold a posted or otherwise advertised public hearing on the withdrawal question.

B. Except as otherwise provided in this section, the voting at the meeting held in a town must be conducted in accordance with Title 30A, sections 2528 and 2529, even if the town has not accepted the provisions of Title 30A, section 2528.

C. The voting at the meeting held in a city must be conducted in accordance with Title 21A.

7. Article. The article to be voted on must be in the following form.

"Article: Do you favor the withdrawal of the (name of municipality) from the regional school unit (name of regional school unit) subject to the terms and conditions of the withdrawal agreement dated (insert date)?

Yes No"

8. Ballots; posting of agreement. The withdrawal agreement need not be printed on the ballot. Copies of the agreement must be posted in the municipality in the same manner as specimen ballots are posted under Title 30A, section 2528.

9. Required vote. A 2/3 vote of those casting valid votes in the municipality is required before the municipality may withdraw from the regional school unit.

10. Restriction on withdrawal petitions. A municipality within a regional school unit may not petition for withdrawal within 2 years after the date of:

A. A municipal vote on a petition for withdrawal if the petition received less than 45% of the votes cast; or

B. A municipal vote on a withdrawal agreement if the agreement received less than 60% of the votes cast.

11. Cost of advisors. The expense of employing competent advisors by the municipality petitioning to withdraw must be borne by the municipality, and the expense of employing competent advisors by the regional school unit must be borne by the regional school unit with the municipality bearing its share according to the regional school unit's cost-sharing agreement.

12. Determination of vote. The town clerk or city clerk shall, within 24 hours of determination of the result of the vote in the municipality, certify the total number of votes cast in the affirmative and the total number of votes cast in the negative on the article to the commissioner.

13. Determination of results; execution of agreement. If the commissioner finds that a 2/3 majority of the voters voting on the article have voted in the affirmative, the commissioner shall notify the municipal officers and the regional school unit board to take steps for the withdrawal in accordance with the terms of the agreement for withdrawal.

14. Recount; checklists and ballots; disputed ballots. This subsection applies to recounts, checklists, ballots and disputed ballots.

A. If, within 7 days of the computation and recording of the results of the voting, the municipality requests to the commissioner in writing a recount of the votes, the commissioner shall immediately cause the checklists and all the ballots cast in the municipality to be collected and kept at the commissioner's office so they may be recounted by the municipality.

B. The town clerk or city clerk of the municipality is authorized to deliver the checklists and ballots to the commissioner, notwithstanding any other provision of law to the contrary.

C. The commissioner shall resolve any question with regard to disputed ballots.

15. Execution of agreement; certified record; certificate of withdrawal. When the agreement for withdrawal has been put into effect by the municipality, the municipal officers shall notify the commissioner by certified mail that the agreement of withdrawal has been executed. A complete certified record of the transaction involved in the withdrawal must be filed with the commissioner. The commissioner shall immediately issue a certificate of withdrawal to be sent by certified mail for filing with the regional school unit board and shall file a copy in the office of the Secretary of State.

16. Indebtedness. This subsection applies to outstanding indebtedness.

A. Whenever a municipality withdraws from a regional school unit having outstanding indebtedness, the regional school unit remains intact for the purpose of securing and retiring the indebtedness. The withdrawal agreement may provide for alternate means for retiring outstanding indebtedness.

B. For the purposes of this subsection, "outstanding indebtedness" means bonds or notes issued or assumed by the regional school unit board and lease-purchase agreements issued or assumed by the regional school unit, but does not include any indebtedness of the withdrawing municipality assumed by the regional school unit at the time of formation.

17. General purpose aid. When a municipality withdraws from a regional school unit, the general purpose aid for the municipality must be computed in accordance with chapter 606B.

18. Committee recall. If the commissioner determines that the withdrawal committee has failed to comply with the requirements of this section, the commissioner may authorize the municipal officers to appoint new representatives to the withdrawal committee.

19. Transfer of property. The regional school unit board may negotiate with the withdrawal committee regarding an equitable division of the regional school unit's property between the regional school unit and the municipality represented by the withdrawal committee and transfer title of the property to the municipality following withdrawal. The regional school unit board shall determine that the regional school unit's educational program will not be disrupted solely because of the transfer of any given property before it may complete the transfer.

20. Reorganization; penalties. A municipality that withdraws from a regional school unit under this section is not subject to penalties applicable to a nonconforming school administrative unit under section 15696 for 2 years after withdrawing from the regional school unit. A municipality that does not join a conforming school administrative unit within 2 years of withdrawal is subject to the penalties applicable to a nonconforming school administrative unit under section 15696. The remaining municipality or municipalities within the regional school unit from which the municipality withdraws are not subject to penalties applicable to a nonconforming school administrative unit under section 15696 for 2 years after the withdrawal of the municipality.

Sec. 10. 20-A MRSA §1467 is enacted to read:

§ 1467. Transfer of a municipality from one regional school unit to another

1. Petition to commissioner. Two regional school unit boards may petition the commissioner by joint resolution to permit a municipality to transfer from one regional school unit to the other.

2. Transfer agreement. The 2 regional school unit boards and the municipal officers of the municipality involved shall form a committee to prepare a transfer agreement within 60 days after being authorized by the commissioner to prepare the agreement. Extensions of time may be granted by the commissioner.

A. The committee shall consider the standards set forth in section 1466, subsection 4, paragraph A in preparing the agreement.

B. The approval process for the agreement must follow the steps set forth in section 1466, subsections 4 to 17.

C. The following article must appear on the ballot when the transfer of a municipality is considered under paragraph B.

"Article: Do you favor permitting the (name of municipality) to transfer from regional school unit (name of regional school unit) into regional school unit (name of regional school unit) as a participating municipality of that regional school unit subject to the terms and conditions of the agreement of transfer approved by the Commissioner of Education dated (insert date)?

Yes No"

A copy of the agreement must be posted with each warrant that directs the citizens to vote upon the question.

D. The article must be approved by a majority of votes cast in both regional school units and by a majority of votes cast in the municipality to be transferred before the agreement may take effect.

E. A complete certified record of the transaction involved in the transfer must be filed with the commissioner. The commissioner shall issue immediately a certificate of transfer to the secretaries of the regional school units by registered mail to be filed with the regional school unit boards involved and shall file a copy of the certificate of transfer in the office of the Secretary of State.

3. Outstanding indebtedness. Whenever a municipality is detached from a regional school unit having outstanding indebtedness, the municipality remains as part of the regional school unit from which it was detached for the purposes of paying its proper portion of the indebtedness until the indebtedness is redeemed. The municipality is not part of the regional school unit from which it was detached for the purpose of any outstanding indebtedness incurred subsequent to the date of the certificate of transfer.

For purposes of this subsection, "outstanding indebtedness" means bonds or notes issued or assumed by the regional school unit board and lease-purchase agreements issued or assumed by the regional school unit, but does not include any indebtedness of the detaching municipality assumed by the regional school unit at the time of formation.

Sec. 11. 20-A MRSA §1468 is enacted to read:

§ 1468. State board review of commissioner's decisions

A regional school unit or other interested party may request that the state board reconsider decisions made by the commissioner under this subchapter. The state board has the authority to overturn decisions made by the commissioner. In exercising this power, the state board is limited by this subchapter.

Sec. 12. 20-A MRSA §1472-C is enacted to read:

§ 1472-C. Term of office for elected directors

Notwithstanding any other provision of this subchapter, a regional school unit board may place an article before the voters in the member municipalities of the regional school unit that would permit the regional school unit board to establish a single common date for beginning the term of office for duly elected directors when the board members are elected at the regular municipal election of the member municipalities and these municipal elections are held at different times.

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

SUMMARY

This amendment strikes and replaces the concept draft and enacts measures designed to improve the laws governing the consolidation of school administrative units. The amendment accomplishes the following.

1. It amends the school administrative unit reorganization laws to permit the Commissioner of Education to approve a reorganization plan for forming a regional school unit or an alternative organizational structure when the Commissioner of Education finds that the school administrative units have documented, in a notice of intent, that they have exhausted all efforts to meet the established requirements and face unique circumstances that warrant an exception to the minimum student enrollment requirements. It also establishes that the commissioner's decision on approval of a reorganization plan under this provision is final.

2. It provides that, beginning in fiscal year 2011-12, school administrative units that are member entities of an alternative organizational structure must be recognized by the Department of Education as discrete school administrative units for school subsidy purposes, unless the member entities of the alternative organizational structure include in their reorganization plan the decision to be recognized as a single school administrative unit for school subsidy purposes. It also provides that, for an alternative organizational structure that was established on or before June 30, 2010, the governing board of the alternative organizational structure may elect to have the member entities of the alternative organizational structure be recognized as discrete school administrative units for school subsidy purposes.

3. It establishes provisions to clarify the formation of an alternative organizational structure including the following:

A. It adds a requirement that a reorganization plan submitted by an alternative organizational structure must include a plan for adoption of consistent collective bargaining agreements in addition to school policies and school calendars;

B. It eliminates the budget validation referendum vote for the budget of an alternative organizational structure;

C. It retains the option of an alternative organizational structure being treated as a single school unit for the purposes of state subsidy; and

D. It permits the Commissioner of Education to count students from the unorganized territory as "attending students" for the purpose of reviewing the minimum student enrollment criteria required for submitting a reorganization plan.

4. It establishes provisions for the withdrawal of a member municipality from a regional school unit and the transfer of a member municipality out of one regional school unit and into another. These provisions are similar to the Maine Revised Statutes, Title 20-A, former sections 1405 and 1406 pertaining to school administrative districts, except that a member municipality that wishes to withdraw from a regional school unit must have been a member of that regional school unit for at least 3 years and voters in the member municipality must approve withdrawal by a 2/3 majority vote. It also provides that a member municipality that does not join a conforming school administrative unit within 2 years of withdrawal is subject to the penalties applicable to a nonconforming school administrative unit under Title 20-A, section 15696. It further adds a provision to clarify that the regional school unit from which the member municipality withdraws may not be penalized for 2 years after the withdrawal of the municipality. Finally, it includes provisions that formerly applied in this area of law authorizing the State Board of Education to review decisions of the Commissioner of Education.

5. It adds provisions to permit a member entity to withdraw from an alternative organizational structure when the alternative organizational structure is approved after July 1, 2010 and it provides that alternative organizational structures that were approved by the Commissioner of Education prior to July 1, 2009 may continue to use the withdrawal provisions approved as part of their reorganization plans.

6. It provides regional school units with a local option for establishing a single, common date for starting the term of office for duly elected members of the regional school unit board when the elections for board members are held on different dates by the member municipalities that make up the regional school unit.

7. It amends collective bargaining provisions in Title 20-A, chapter 103-A to provide requirements for alternative organizational structures that align with the existing provisions for regional school units.

FISCAL NOTE REQUIRED
(See attached)