

# MAINE STATE LEGISLATURE

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**§ 2202. Statement of policy**

It is the purpose of this compact to increase the educational opportunities within the states of Maine and New Hampshire by encouraging the formation of interstate school districts which will each be a natural social and economic region with adequate financial resources and a number of pupils sufficient to permit the efficient use of school facilities within the interstate district and to provide improved instruction. The state boards of education of Maine and New Hampshire may formulate and adopt additional standards consistent with this purpose and with these standards; and the formation of any interstate school district and the adoption of its articles of agreement shall be subject to the approval of both state boards as set forth.

**§ 2203. Requirement of congressional approval**

This compact shall not become effective until approved by the United States Congress.

**§ 2204. Definitions**

The terms used in this compact shall be construed as follows, unless a different meaning is clearly apparent from the language or context:

1. Commissioner. "Commissioner" shall refer to Commissioner of Educational and Cultural Services.

2. Elementary school. "Elementary school" shall mean a school which includes all grades from kindergarten or grade one through not less than grade 6 nor more than grade 8.

3. Interstate board. "Interstate board" shall refer to the board serving an interstate school district.

4. Interstate school district. "Interstate school district" and "interstate district" shall mean a school district composed of one or more school districts located in the State of Maine associated under this compact with one or more school districts located in the state of New Hampshire and may include either the elementary schools, the secondary schools, or both.

5. Joint action. "Joint action" where joint action by both state boards is required, each state board shall deliberate and vote by its own majority, but shall separately reach the same result or take the same action as the other state board.

6. Maine board. "Maine board" shall refer to the Maine State Board of Education.

7. Member school district. "Member school district" and "member district" shall mean a school administrative unit located either in Maine or New Hampshire which is included within the boundaries of a proposed or established interstate school district.

8. New Hampshire board. "New Hampshire board" shall refer to the New Hampshire state board of education.

9. Professional staff personnel. "Professional staff personnel" and "instructional staff personnel" shall include superintendents, assistant superintendents, administrative assistants, principals, guidance counselors, special education personnel, school nurses, therapists, teachers, and other certificated personnel.

10. Secondary school. "Secondary school" shall mean a school which includes all grades beginning no lower than grade 7 and no higher than grade 12.

11. Warrant. "Warrant" or "warning" means the same for both states.

## ARTICLE II

### PROCEDURE FOR FORMATION OF AN INTERSTATE SCHOOL DISTRICT

#### § 2205. Creation of planning committee

The Maine and New Hampshire commissioners of education shall have the power, acting jointly to constitute and discharge one or more interstate school district planning committees. Each such planning committee shall consist of at least 2 voters from each of a group of 2 or more neighboring member districts. One of the representatives from each member district shall be a member of its school board, whose term on the planning committee shall be concurrent with his term as a school board member. The term of each member of a planning committee who is not also a school board member shall expire on June 30th of the 3rd year following his appointment. The existence of any planning committee may be terminated either by vote of a majority of its members or by joint action of the commissioners. In forming and appointing members to an interstate school district planning board, the commissioners shall consider and take into account recommendations and nominations made by school boards of member districts. No member of a planning committee shall be disqualified because he is at the same time a member of another planning board or committee created under this compact or under any other provisions of law. Any existing informal interstate school planning committee may be reconstituted as a formal planning committee in accordance with the provisions hereof, and its previous deliberations adopted and ratified by the reorganized formal planning committee. Vacancies on a planning committee shall be filled by the commissioners acting jointly.

#### § 2206. Operating procedures of planning committee

Each interstate school district planning committee shall meet in the first instance at the call of any member, and shall organize by the election of a chairman and clerk-treasurer, each of whom shall be a resident of a different state. Subsequent meetings may be called by either officer of the committee. The members of the committee shall serve without pay. The member districts shall appropriate money on an equal basis at each annual meeting to meet the expenses of the committee, including the cost of publication and distribution of reports and advertising. From time to time the commissioners may add additional members

and additional member districts to the committee, and may remove members and member districts from the committee. An interstate school district planning committee shall act by majority vote of its membership present and voting.

**§ 2207. Duties of interstate school district planning committee**

It shall be the duty of an interstate school district planning committee, in consultation with the commissioners and the state departments of education: To study the advisability of establishing an interstate school district in accordance with the standards set forth in section 2202, its organization, operation and control, and the advisability of constructing, maintaining and operating a school or schools to serve the needs of such interstate district; to estimate the construction and operating costs thereof; to investigate the methods of financing such school or schools, and any other matters pertaining to the organization and operation of an interstate school district; and to submit a report or reports of its findings and recommendations to the several member districts.

**§ 2208. Recommendations and preparation of articles of agreement**

An interstate school district planning committee may recommend that an interstate school district composed of all the member districts represented by its membership, or any specified combination of such member districts, be established. If the planning committee does recommend the establishment of an interstate school district, it shall include in its report such recommendation, and shall prepare and include in its report proposed articles of agreement for the proposed interstate school district, which shall be signed by at least a majority of the membership of the planning committee, which set forth the following:

1. **Name.** The name of the interstate school district.
2. **Districts.** The member districts which shall be combined to form the proposed interstate school district.
3. **Board.** The number, composition, method of selection and terms of office of the interstate school board, provided that:
  - A. The interstate school board shall consist of an odd number of members, not less than 5 nor more than 15;
  - B. The terms of office shall not exceed 3 years;
  - C. Each member district shall be entitled to elect at least one member of the interstate school board. Each member district shall either vote separately at the interstate school district meeting by the use of a distinctive ballot, or shall choose its member or members at any other election at which school officials may be chosen;
  - D. The method of election shall provide for the filing of candidacies in advance of election and for the use of a printed nonpartisan ballot;
  - E. Subject to the foregoing, provision may be made for the election of one or more members at large.

4. **Grades.** The grades for which the interstate school district shall be responsible.

5. **Properties and schools.** The specific properties of member districts to be acquired initially by the interstate school district and the general location of any proposed new schools to be initially established or constructed by the interstate school district.

6. **Operating expenses.** The method of apportioning the operating expenses of the interstate school district among the several member districts, and the time and manner of payments of such shares.

7. **Debts.** The indebtedness of any member district which the interstate district is to assume.

8. **Capital expenses.** The method of apportioning the capital expenses of the interstate school district among the several member districts, which need not be the same as the method of apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the cost of acquiring land and buildings for school purposes; the construction, furnishing and equipping of school buildings and facilities; and the payment of the principal and interest of any indebtedness which is incurred to pay for the same.

9. **State aid.** The manner in which state aid, available under the laws of either Maine or New Hampshire, shall be allocated, unless otherwise expressly provided in this compact or by the laws making such aid available.

10. **Amendments.** The method by which the articles of agreement may be amended, which amendments may include the annexation of territory, or an increase or decrease in the number of grades for which the interstate district shall be responsible, provided that no amendment shall be effective until approved by both state boards in the same manner as required for approval of the original articles of agreement.

11. **Operating responsibilities.** The date of operating responsibility of the proposed interstate school district and a proposed program for the assumption of operating responsibility for education by the proposed interstate school district, and any school construction; which the interstate school district shall have the power to vary by vote as circumstances may require.

12. **Other matters.** Any other matters, not incompatible with law, which the interstate school district planning committee may consider appropriate to include in the articles of agreement, including, without limitation:

A. The method of allocating the cost of transportation between the interstate district and member districts:

B. The nomination of individual school directors to serve until the first annual meeting of the interstate school district.

If the planning committee recommends the formation of an interstate school district, it shall hold at least one public hearing on its report and the proposed articles of agreement within the proposed interstate school district in Maine, and at least one public hearing thereon within the proposed interstate school district in New Hampshire. The planning committee shall give such notice thereof as it may determine to be reasonable, provided that such notice shall include at least one publication in a newspaper of general circulation within the proposed interstate school district not less than 15 days, not counting the date of publication and not counting the date of the hearing, before the date of the first hearing. Such hearings may be adjourned from time to time and from place to place. The planning committee may revise the proposed articles of agreement after the date of the hearings. It shall not be required to hold further hearings on the revised articles of agreement but may hold one or more further hearings after notice similar to that required for the first hearings if the planning committee in its sole discretion determines that the revisions are so substantial in nature as to require further presentation to the public before submission to the state boards of education.

#### § 2210. Approval by state boards

After the hearings a copy of the proposed articles of agreement, as revised, signed by a majority of the planning committee, shall be submitted by it to each state board. The state boards may if they find that the articles of agreement are in accord with the standards set forth in this compact and in accordance with sound educational policy, approve the same as submitted, or refer them back to the planning committee for further study. The planning committee may make additional revisions to the proposed articles of agreement to conform to the recommendations of the state boards. Further hearings on the proposed articles of agreement shall not be required unless ordered by the state boards in their discretion. In exercising such discretion, the state boards shall take into account whether or not the additional revisions are so substantial in nature as to require further presentation to the public. If both state boards find that the articles of agreement as further revised are in accord with the standards set forth in this compact and in accordance with sound educational policy, they shall approve the same. After approval by both state boards, each state board shall cause the articles of agreement to be submitted to the school boards of the several member districts in each state for acceptance by the member districts as provided in section 2211. At the same time, each state board shall designate the form of warrant, date, time, place, and period of voting for the special meeting of the member district to be held in accordance with the section 2211.

#### § 2211. Adoption by member districts

Upon receipt of written notice from the state board in its state of the approval of the articles of agreement by both state boards, the school board of each member district shall cause the articles of agreement to be filed with the member district clerk. Within 10 days after receipt of such notice, the school board shall issue its warrant for a special meeting of the member district, the warrant to be in the form, and the meeting to be held at the time and place and in the manner

prescribed by the state board. No approval of the Superior Court shall be required for such special school district meeting in New Hampshire. Voting shall be with the use of the checklist by a ballot substantially in the following form:

“Shall the school district accept the provisions of the Maine and New Hampshire Interstate School Compact providing for the establishment of an interstate school district, together with the school districts of ..... and ..... , etc., in accordance with the proposed articles of agreement filed with the school district (town, city or incorporated school district) clerk?”

Yes ( )                      No ( )

If the articles of agreement included the nomination of individual school directors, those nominated from each member district shall be included in the ballot and voted upon, such election to become effective upon the formation of an interstate school district.

If a majority of the voters present and voting in a member district vote in the affirmative, the clerk for such member district shall forthwith send to the state board in its state a certified copy of the warrant, certificate of posting, and minutes of the meeting of the district. If the state boards of both states find that a majority of the voters present and voting in each member district have voted in favor of the establishment of the interstate school district, they shall issue a joint certificate to that effect; and such certificate shall be conclusive evidence of the lawful organization and formation of the interstate school district as of its date of issuance.

§ 2212. Resubmission

If the proposed articles of agreement are adopted by one or more of the member districts but rejected by one or more of the member districts, the state boards may resubmit them, in the same form as previously submitted, to the rejecting member districts, in which case the school boards thereof shall resubmit them to the voters in accordance with section 2211. An affirmative vote in accordance therewith shall have the same effect as though the articles of agreement had been adopted in the first instance. In the alternative, the state boards may either discharge the planning committee, or refer the articles of agreement back for further consideration to the same or a reconstituted planning committee, which shall have all of the powers and duties as the planning committee as originally constituted.

ARTICLE III

POWERS OF INTERSTATE SCHOOL DISTRICTS

§ 2213. Powers

1. Powers. Each interstate school district shall be a body corporate and politic, with power to:

- A. Acquire, construct, extend, improve, staff, operate, manage and govern public schools within its boundaries;
- B. Sue and be sued, subject to the limitations of liability hereinafter set forth;
- C. Have a seal and alter the same at pleasure;
- D. Adopt, maintain and amend bylaws not inconsistent with this compact, and the laws of the 2 states;
- E. Acquire by purchase, condemnation, lease or otherwise, real and personal property for the use of its schools;
- F. Enter into contracts and incur debts;
- G. Borrow money for the purposes set forth, and to issue its bonds or notes therefor;
- H. Make contracts with and accept grants and aid from the United States, the State of Maine, the State of New Hampshire, any agency or municipality thereof, and private corporations and individuals for the construction, maintenance, reconstruction, operation and financing of its schools; and to do any and all things necessary in order to avail itself of such aid and cooperation;
- I. Employ such assistants, agents, servants and independent contractors as it shall deem necessary or desirable for its purposes; and
- J. Take any other action which is necessary or appropriate in order to exercise any of the foregoing powers.

#### ARTICLE IV

##### DISTRICT MEETINGS

###### § 2214. General

Votes of the district shall be taken at a duly warned meeting held at any place in the district, at which all of the eligible legal voters of the member districts shall be entitled to vote, except as otherwise provided with respect to the election of directors.

###### § 2215. Eligibility of voters

Any resident who would be eligible to vote at a meeting of a member district being held at the same time shall be eligible to vote at a meeting of the interstate district. The town clerks in each Maine member district and the supervisors of the checklist of each New Hampshire district shall respectively prepare a checklist of eligible voters for each meeting of the interstate district in the same manner, and they shall have all the same powers and duties with respect to eligibility of voters in their districts as for a meeting of a member district.

###### § 2216. Warning of meetings

A meeting shall be warned by a warrant addressed to the residents of the



interstate school district qualified to vote in district affairs, stating the time and place of the meeting and the subject matter of the business to be acted upon. The warrant shall be signed by the clerk and by a majority of the directors. Upon written application of 10 or more voters in the district, presented to the directors or to one of them, at least 25 days before the day prescribed for an annual meeting, the directors shall insert in their warrant for such meeting any subject matter specified in such application.

**§ 2217. Posting and publication of warrant**

The directors shall cause an attested copy of the warrant to be posted at the place of meeting, and a like copy at a public place in each member district at least 20 days, not counting the date of posting and the date of meeting, before the date of the meeting. In addition, the directors shall cause the warrant to be advertised in a newspaper of general circulation on at least one occasion, such publication to occur at least 10 days, not counting the date of publication and not counting the date of the meeting, before the date of the meeting. Although no further notice shall be required, the directors may give such further notice of the meeting as they in their discretion deem appropriate under the circumstances.

**§ 2218. Return of warrant**

The warrant with a certificate thereon, verified by oath, stating the time and place when and where copies of the warrant were posted and published, shall be given to the clerk of the interstate school district at or before the time of the meeting, and shall be recorded by him in the records of the interstate school district.

**§ 2219. Organization meeting**

The commissioners, acting jointly, shall fix a time and place for a special meeting of the qualified voters within the interstate school district for the purpose of organization, and shall prepare and issue the warrant for the meeting after consultation with the interstate school district planning board and the members-elect, if any, of the interstate school board of directors. Such meeting shall be held within 60 days after the date of issuance of the certificate of formation, unless the time is further extended by the joint action of the state boards. At the organization meeting the commissioner of education of the state where the meeting is held, or his designate, shall preside in the first instance, and the following business shall be transacted:

1. **Temporary moderator and clerk.** A temporary moderator and a temporary clerk shall be elected from among the qualified voters who shall serve until a moderator and clerk respectively have been elected and qualified.

2. **Officers.** A moderator, a clerk, a treasurer and 3 auditors shall be elected to serve until the next annual meeting and thereafter until their successors are elected and qualified. Unless previously elected, a board of school directors shall be elected to serve until their successors are elected and qualified.

3. **Date of annual meeting.** The date for the annual meeting shall be established.

4. **Expenses.** Provision shall be made for the payment of any organizational or other expense incurred on behalf of the district before the organization meeting, including the cost of architects, surveyors, contractors, attorneys and educational or other consultants or experts.

5. **Other business.** Any other business, the subject matter of which has been included in the warrant, and which the voters would have had power to transact at an annual meeting.

§ 2220. **Annual meetings**

An annual meeting of the district shall be held between January 15th and June 1st of each year at such time as the interstate district may by vote determine. Once determined, the date of the annual meeting shall remain fixed until changed by vote of the interstate district at a subsequent annual or special meeting. At each annual meeting the following business shall be transacted:

1. **Officers.** Necessary officers shall be elected.

2. **Appropriation.** Money shall be appropriated for the support of the interstate district schools for the fiscal year beginning the following July 1st.

3. **Other business.** Such other business as may properly come before the meeting.

§ 2221. **Special meetings**

A special meeting of the district shall be held whenever, in the opinion of the directors, there is occasion therefor, or whenever written application shall have been made by 5% or more of the voters based on the checklists as prepared for the last preceding meeting, setting forth the subject matter upon which such action is desired. A special meeting may appropriate money without compliance with RSA 338 or RSA 197.3 which would otherwise require the approval of the New Hampshire Superior Court.

§ 2222. **Certification of records**

The clerk of an interstate school district shall have the power to certify the record of the votes adopted at an interstate school district meeting to the respective commissioners and state boards and, where required, for filing with a secretary of state.

§ 2223. **Method of voting at school district meetings**

Voting at meetings of interstate school districts shall take place as follows:

1. **School directors.** A separate ballot shall be prepared for each member district, listing the candidates for interstate school director to represent such member district; and any candidates for interstate school director at large; and the voters of each member district shall register on a separate ballot their choice

for the office of school director or directors. In the alternative, the articles of agreement may provide for the election of school directors by one or more of the member districts at an election otherwise held for the choice of school or other municipal officers.

2. **Other votes.** Except as otherwise provided in the articles of agreement or this compact, with respect to all other votes, the voters of the interstate school district shall vote as one body irrespective of the member districts in which they are resident, and a simple majority of those present and voting at any duly warned meeting shall carry the vote. Voting for officers to be elected at any meeting, other than school directors, shall be by ballot or voice, as the interstate district may determine, either in its articles of agreement or by a vote of the meeting.

## ARTICLE V OFFICERS

### § 2224. Officers; general

The officers of an interstate school district shall be a board of school directors, a chairman of the board, a vice-chairman of the board, a secretary of the board, a moderator, a clerk, a treasurer and 3 auditors. Except as otherwise specifically provided, they shall be eligible to take office immediately following their election; they shall serve until the next annual meeting of the interstate district and until their successors are elected and qualified. Each shall take oath for the faithful performance of his duties before the moderator, or a notary public or a justice of the peace of the state in which the oath is administered. Their compensation shall be fixed by vote of the district. No person shall be eligible to any district office unless he is a voter in the district. A custodian, school teacher, principal, superintendent or other employee of an interstate district acting as such shall not be eligible to hold office as a school director.

### § 2225. Board of directors

1. **How chosen.** Each member district shall be represented by at least one resident on the board of school directors of an interstate school district. A member district shall be entitled to such further representation on the interstate board of school directors as provided in the articles of agreement as amended from time to time. The articles of agreement as amended from time to time may provide for school directors at large, as set forth. No person shall be disqualified to serve as a member of an interstate board because he is at the same time a member of the school board of a member district.

2. **Term.** Interstate school directors shall be elected for terms in accordance with the articles of agreement.

3. **Duties of board of directors.** The board of school directors of an interstate school district shall have and exercise all of the powers of the district not reserved herein to the voters of the district.

4. **Organization.** The clerk of the district shall warn a meeting of the board of

school directors to be held within 10 days following the date of the annual meeting, for the purpose of organizing the board, including the election of its officers.

§ 2226. Chairman of the board

The chairman of the board of interstate school directors shall be elected by the interstate board from among its members as its first meeting following the annual meeting. The chairman shall preside at the meetings of the board and shall perform such other duties as the board may assign to him.

§ 2227. Vice-chairman of the board of directors

The vice-chairman of the interstate board shall be elected in the same manner as the chairman. He shall represent a member district in a state other than that represented by the chairman. He shall preside in the absence of the chairman and shall perform such other duties as may be assigned to him by the interstate board.

§ 2228. Secretary of the board

The secretary of the interstate board shall be elected in the same manner as the chairman. Instead of electing one of its members, the interstate board may appoint the interstate district clerk to serve as secretary of the board in addition to his other duties. The secretary of the interstate board, or the interstate district clerk, if so appointed, shall keep the minutes of its meetings, shall certify its records, and perform such other duties as may be assigned to him by the board.

§ 2229. Moderator

The moderator shall preside at the district meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed. He may prescribe rules of procedure; but such rules may be altered by the district. He may administer oaths to district officers in either state.

§ 2230. Clerk

The clerk shall keep a true record of all proceedings at each district meeting, shall certify its records, shall make an attested copy of any records of the district for any person upon request and tender of reasonable fees therefor, if so appointed, shall serve as secretary of the board of school directors, and shall perform such other duties as may be required by custom or law.

§ 2231. Treasurer

The treasurer shall have custody of all of the moneys belonging to the district and shall pay out the same only upon the order of the interstate board. He shall keep a fair and accurate account of all sums received into and paid from the interstate district treasury, and at the close of each fiscal year he shall make a report to the interstate district, giving a particular account of all receipts and payments during the year. He shall furnish to the interstate directors, statements from his books and submit his books and vouchers to them and to the district auditors for examination whenever so requested. He shall make all returns called

for by laws relating to school districts. Before entering on his duties, the treasurer shall give a bond with sufficient sureties and in such sum as the directors may require. The treasurer's term of office is from July 1st to the following June 30th.

§ 2232. Auditors

At the organization meeting of the district, 3 auditors shall be chosen, one to serve for a term of one year, one to serve for a term of 2 years and one to serve for a term of 3 years. After the expiration of each original term, the successor shall be chosen for a 3-year term. At least one auditor shall be a resident of Maine, and one auditor shall be a resident of New Hampshire. An interstate district may vote to employ a certified public accountant to assist the auditors in the performance of their duties. The auditors shall carefully examine the accounts of the treasurer and the directors at the close of each fiscal year, and at such other times whenever necessary, and report to the district whether the same are correctly cast and properly vouched.

§ 2233. Superintendent

The superintendent of schools shall be selected by a majority vote of the board of school directors of the interstate district with the approval of both commissioners.

§ 2234. Vacancies

Any vacancy among the elected officers of the district shall be filled by the interstate board until the next annual meeting of the district or other election, when a successor shall be elected to serve out the remainder of the unexpired term, if any. Until all vacancies on the interstate board are filled, the remaining members shall have full power to act.

## ARTICLE VI

### APPROPRIATION AND APPORTIONMENT

§ 2235. Budget

Before each annual meeting, the interstate board shall prepare a report of expenditures for the preceding fiscal year, an estimate of expenditures for the current fiscal year, and a budget for the succeeding fiscal year.

§ 2236. Appropriation

The interstate board of directors shall present the budget report at the annual meeting. The interstate district shall appropriate a sum of money for the support of its schools and for the discharge of its obligations for the ensuing fiscal year.

§ 2237. Apportionment of appropriation

Subject to the provisions of article VII, the interstate board shall first apply against such appropriation any income to which the interstate district is entitled, and shall then apportion the balance among the member districts in accordance

with one of the following formulas as determined by the articles of agreement as amended from time to time:

1. **Taxable property.** All of such balance to be apportioned on the basis of the ratio that the fair market value of the taxable property in each member district bears to that of the entire interstate district; or

2. **Resident membership.** All of such balance to be apportioned on the basis that the average daily resident membership for the preceding fiscal year of each member district bears to that of the average daily resident membership of the entire interstate school district; or

3. **Combined formula.** A formula based on any combination of the foregoing factors. The term "fair market value of taxable property" shall mean the last locally assessed valuation of a member district in New Hampshire, as last equalized by the New Hampshire state tax commission.

The term "fair market value of taxable property" shall mean the equalized grand list of a Maine member district, as determined by the Maine Bureau of Taxation.

Such assessed valuation and grand list may be further adjusted, by elimination of certain types of taxable property from one or the other or otherwise, in accordance with the articles of agreement, in order that the fair market value of taxable property in each state shall be comparable.

"Average daily resident membership" of the interstate district in the first instance shall be the sum of the average daily resident membership of the member districts in the grades involved for the preceding fiscal year where no students were enrolled in the interstate district schools for such preceding fiscal year.

#### § 2238. Share of Maine member district

The interstate board shall certify the share of a Maine member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district.

#### § 2239. Share of New Hampshire member district

The interstate board shall certify the share of a New Hampshire member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district. The interstate district shall not set up its own capital reserve funds; but a New Hampshire member district may set up a capital reserve fund in accordance with RSA 35, to be turned over to the interstate district in payment of the New Hampshire member district's share of any anticipated obligations.

**ARTICLE VII**  
**BORROWING**

**§ 2240. Interstate district indebtedness**

Indebtedness of an interstate district shall be a general obligation of the district and shall be a joint and several general obligation of each member district, except that such obligations of the district and its member districts shall not be deemed indebtedness of any member district for the purposes of determining its borrowing capacity under Maine or New Hampshire law. A member district which withdraws from an interstate district shall remain liable for indebtedness of the interstate district which is outstanding at the time of withdrawal and shall be responsible for paying its share of such indebtedness to the same extent as though it had not withdrawn.

**§ 2241. Temporary borrowing**

The interstate board may authorize the borrowing of money by the interstate district (1) in anticipation of payments of operating and capital expenses by the member district to the interstate district and (2) in anticipation of the issue of bonds or notes of the interstate district which have been authorized for the purpose of financing capital projects. Such temporary borrowing shall be evidenced by interest bearing or discounted notes of the interstate district. The amount of notes issued in any fiscal year in anticipation of expense payments shall not exceed the amount of such payments received by the interstate district in the preceding fiscal year. Notes issued under this section shall be payable within one year in the case of notes under clause (1) and 3 years in the case of notes under clause (2) from their respective dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid from time to time by the issue of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the same debt shall not exceed the maximum period permitted for the original loan.

**§ 2242. Borrowing for capital projects**

An interstate district may incur debt and issue its bonds or notes to finance capital projects. Such projects may consist of the acquisition or improvement of land and buildings for school purposes, the construction, reconstruction, alteration or enlargement of school buildings and related school facilities, the acquisition of equipment of a lasting character and the payment of judgments. No interstate district may authorize indebtedness in excess of 10% of the total fair market value of taxable property in its member districts as defined in article VI. The primary obligation of the interstate district to pay indebtedness of member districts shall not be considered indebtedness of the interstate district for the purpose of determining its borrowing capacity under this section. Bonds or notes issued under this section shall mature in equal or diminishing installments of principal payable at least annually commencing no later than 2 years and ending not later than 30 years after their dates.

**§ 2243. Authorization**

An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. Such vote shall be taken by secret ballot after full opportunity for debate, and any such vote shall be subject to reconsideration and further action by the district at the same meeting or at an adjourned session thereof.

**§ 2244. Sale of bonds and notes**

Bonds and notes which have been authorized under this article may be issued from time to time and shall be sold at not less than par and accrued interest at public or private sale by the chairman of the school board and by the treasurer. Interstate district bonds and notes shall be signed by the said officers, except that either one of the 2 required signatures may be a facsimile. Subject to this compact and the authorizing vote, they shall be in such form, bear such rates of interest and mature at such times as the said officers may determine. Bonds shall, but notes need not, bear the seal of the interstate district, or a facsimile of such seal. Any bonds or notes of the interstate district which are properly executed by the said officers shall be valid and binding according to their terms notwithstanding that before the delivery thereof such officers may have ceased to be officers of the interstate district.

**§ 2245. Proceeds of bonds**

Any accrued interest received upon delivery of bonds or notes of an interstate district shall be applied to the payment of the first interest which becomes due thereon. The other proceeds of the sale of such bonds or notes, other than temporary notes, including any premiums, may be temporarily invested by the interstate district pending their expenditure; and such proceeds, including any income derived from the temporary investment of such proceeds, shall be used to pay the costs of issuing and marketing the bonds or notes and to meet the operating expenses or capital expenses in accordance with the purposes for which the bonds or notes were issued or, by proceedings taken in the manner required for the authorization of such debt, for other purposes for which such debt could be incurred. No purchaser of any bonds or notes of an interstate district shall be responsible in any way to see to the application of the proceeds thereof.

**§ 2246. State aid programs**

As used in this section the term "initial aid" shall include Maine and New Hampshire financial assistance with respect to a capital project, or the means of financing a capital project, which is available in connection with construction costs of a capital project or which is available at the time indebtedness is incurred to finance the project. Without limiting the generality of the foregoing definition, initial aid shall specifically include a New Hampshire state guarantee under RSA 195-B with respect to bonds or notes and Maine construction aid under Title 20, section 3457. As used in this section, the term "long-term aid" shall include Maine and New Hampshire financial assistance which is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality



of the foregoing definition, long-term aid shall specifically include New Hampshire school building aid under RSA 198 and Maine school building aid under Title 20, section 3457. For the purpose of applying for, receiving and expending initial aid and long-term aid an interstate district shall be deemed a native school district by each state, subject to the following provisions.

When an interstate district has appropriated money for a capital project, the amount appropriated shall be divided into a Maine share and a New Hampshire share in accordance with the capital expense apportionment formula in the articles of agreement as though the total amount appropriated for the project was a capital expense requiring apportionment in the year the appropriation is made. New Hampshire initial aid shall be available with respect to the amount of the New Hampshire share as though it were authorized indebtedness of a New Hampshire cooperative school district. In the case of a state guarantee of interstate district bonds or notes under RSA 195-B, the interstate district shall be eligible to apply for and receive an unconditional state guarantee with respect to an amount of its bonds or notes which does not exceed 50% of the amount of the New Hampshire share as determined above. Maine aid shall be available with respect to the amount of the Maine share as though it were funds voted by a Maine school district. Payments of Maine aid shall be made to the interstate district, and the amount of any borrowing authorized to meet the appropriation for the capital project shall be reduced accordingly. New Hampshire and Maine long-term aid shall be payable to the interstate district. The amounts of long-term aid in each year shall be based on the New Hampshire and Maine shares of the amount of indebtedness of the interstate district which is payable in that year and which has been apportioned in accordance with the capital expense apportionment formula in the articles of agreement. The New Hampshire aid shall be payable at the rate of 45% if there are 3 or less New Hampshire members in the interstate district, and otherwise it shall be payable as though the New Hampshire members were a New Hampshire cooperative school district. New Hampshire and Maine long-term aid shall be deducted from the total capital expenses for the fiscal year in which the long-term aid is payable, and the balance of such expenses shall be apportioned among the member districts. Notwithstanding the foregoing provisions, New Hampshire and Maine may at any time change their state school aid programs that are in existence when this compact takes effect and may establish new programs, and any legislation for these purposes may specify how such programs shall be applied with respect to interstate districts.

#### § 2247. Tax exemption

Bonds and notes of an interstate school district shall be exempt from local property taxes in both states, and the interest or discount thereon and any profit derived from the disposition thereof shall be exempt from personal income taxes in both states.

**ARTICLE VIII****TAKING OVER OF EXISTING PROPERTY****§ 2248. Power to acquire property of member district**

The articles of agreement, or an amendment thereof, may provide for the acquisition by an interstate district from a member district of all or a part of its existing plant and equipment.

**§ 2249. Valuation**

The articles of agreement, or the amendment, shall provide for the determination of the value of the property to be acquired in one or more of the following ways:

1. In articles of agreement. A valuation set forth in the articles of agreement or the amendment.
2. Appraisal. By appraisal, in which case, one appraiser shall be appointed by each commissioner, and a third appraiser appointed by the first 2 appraisers.

**§ 2250. Reimbursement to member district**

The articles of agreement shall specify the method by which the member district shall be reimbursed by the interstate district for the property taken over, in one or more of the following ways:

1. Lump sum. By one lump sum, appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.
2. Installments. In installments over a period of not more than 20 years, each of which is appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.
3. Agreement. By an agreement to assume or reimburse the member district for all principal and interest on any outstanding indebtedness originally incurred by the member district to finance the acquisition and improvement of the property, each such installment to be appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

The member district transferring the property shall have the same obligation to pay to the interstate district its share of the cost of such acquisition, but may offset its right to reimbursement.

**ARTICLE IX****AMENDMENTS TO ARTICLES OF AGREEMENT****§ 2251. Adoption**

Amendments to the articles of agreement may be adopted in the same manner provided for the adoption of the original articles of agreement, except that:

1. **Planning committee functions.** Unless the amendment calls for the addition of a new member district, the functions of the planning committee shall be carried out by the interstate district board of directors.

2. **Voting.** If the amendment proposes the addition of a new member district, the planning committee shall consist of all of the members of the interstate board and all of the members of the school board of the proposed new member district or districts. In such case the amendment shall be submitted to the voters at an interstate district meeting, at which an affirmative vote of  $2/3$  of those present and voting shall be required. The articles of agreement together with the proposed amendment shall be submitted to the voters of the proposed new member district at a meeting thereof, at which a simple majority of those present and voting shall be required.

3. **As one body.** In all cases an amendment may be adopted on the part of an interstate district upon the affirmative vote of voters thereof at a meeting voting as one body. Except where the amendment proposes the admission of a new member district, a simple majority of those present and voting shall be required for adoption.

4. **Application.** No amendment to the articles of agreement may impair the rights of bond or note holders or the power of the interstate district to procure the means for their payment.

## ARTICLE X

### APPLICABILITY OF NEW HAMPSHIRE LAWS

#### § 2252. General school laws

With respect to the operation and maintenance of any school of the district located in New Hampshire, New Hampshire law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the union superintendent shall be exercised and discharged by the interstate district superintendent.

#### § 2253. New Hampshire state aid

A New Hampshire school district shall be entitled to receive an amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the New Hampshire member district, and as though the New Hampshire member district pupils attending the interstate school were attending a New Hampshire cooperative school district's school. The state aid shall be paid to the New Hampshire member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

#### § 2254. Continued existence of New Hampshire member school district

A New Hampshire member school district shall continue in existence, and shall

have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The New Hampshire member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor, unless the indebtedness is specifically assumed in accordance with the articles of agreement. Any trust funds or capital reserve funds and any property not taken over by the interstate district shall be retained by the New Hampshire member district and held or disposed of according to law. If all of the schools in a member district are incorporated into an interstate district, then no annual meeting of the member district shall be required unless the members of the interstate board from the member district shall determine that there is occasion for such an annual meeting.

§ 2255. Suit and service of process in New Hampshire

The courts of New Hampshire shall have the same jurisdiction over the district as though a New Hampshire member district were a party instead of the interstate district. The service necessary to institute suit in New Hampshire shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last and usual place of abode of one of the directors who resides in New Hampshire, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

§ 2256. Employment

Each employee of an interstate district assigned to a school located in New Hampshire shall be considered an employee of a New Hampshire school district for the purpose of the New Hampshire teachers retirement system, the New Hampshire state employees retirement system, the New Hampshire workmen's compensation law and any other law relating to the regulation of employment or the provision of benefits for employees of New Hampshire school districts except as follows:

1. Teachers in New Hampshire member district. A teacher in a new Hampshire member district may elect to remain a member of the New Hampshire teachers retirement system, even though assigned to teach in an interstate school in Maine.

2. Professional or instructional staff members. Employees of interstate districts designated as professional or instructional staff members, as defined in article I, may elect to participate in the teachers retirement system of either the

State of New Hampshire or the State of Maine but in no case will they participate in both retirement systems simultaneously.

3. Duties of superintendent. It shall be the duty of the superintendent in an interstate district to:

- A. Advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement systems;
- B. See that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed;
- C. Provide the commissioners of education in New Hampshire and in Maine with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

## ARTICLE XI

### APPLICABILITY OF MAINE LAWS

#### § 2257. General school laws

With respect to the operation and maintenance of any school of the district located in Maine, the provisions of Maine law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the superintendent shall be exercised and discharged by the interstate district superintendent.

#### § 2258. Maine state aid

A Maine school district shall be entitled to receive such amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expense of the Maine member district, and as though the Maine member district pupils attending the interstate schools were attending a Maine unit. Such state aid shall be paid to the Maine member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

#### § 2259. Continued existence of Maine school districts

A Maine school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all

of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The Maine member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor. Any trust funds and any property not taken over shall be retained by the Maine member school district and held or disposed of according to law.

§ 2260. Suit and service of process in Maine

The courts of Maine shall have the same jurisdiction over the districts as though a Maine member district were a party instead of the interstate district. The service necessary to institute suit in Maine shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last and usual place of abode of one of the directors who resides in Maine, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

§ 2261. Employment

Each employee of an interstate district assigned to a school located in Maine shall be considered an employee of a Maine school district for the purpose of the State Retirement System, the Maine workmen's compensation law, and any other laws relating to the regulation of employment or the provision of benefits for employees of Maine school districts except as follows:

1. Teachers in Maine member district. A teacher in a Maine member district may elect to remain a member of the State Retirement System of Maine, even though assigned to teach in an interstate school in New Hampshire.

2. Professional or instructional staff members. Employees of interstate districts designated as professional or instructional staff members, as defined in article I, may elect to participate in the State Retirement System of the State of Maine or the teachers' retirement system of the state of New Hampshire but in no case will they participate in both retirement systems simultaneously.

3. Duties of superintendent. It shall be the duty of the superintendent in an interstate district to:

A. Advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement system;

B. See that each teacher or professional staff employees elects the retirement system of his choice at the time his contract is signed;

C. Provide the commissioners of education in New Hampshire and in Maine with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

**ARTICLE XII**  
**MISCELLANEOUS PROVISIONS**

**§ 2262. Studies**

Insofar as practicable, the studies required by the laws of both states shall be offered in an interstate school district.

**§ 2263. Textbooks**

Textbooks and scholar's supplies shall be provided at the expense of the interstate district for pupils attending its schools.

**§ 2264. Transportation**

The allocation of the cost of transportation in an interstate school district, as between the interstate district and the member districts, shall be determined by the articles of agreement.

**§ 2265. Location of schoolhouses**

In any case where a new schoolhouse or other school facility is to be constructed or acquired, the interstate board shall first determine whether it shall be located in New Hampshire or in Maine. If it is to be located in New Hampshire, RSA 199, relating to schoolhouses, shall apply. If it is to be located in Maine, the Maine law relating to schoolhouses shall apply.

**§ 2266. Fiscal year**

The fiscal year of each interstate district shall begin on July 1st of each year and end on June 30th of the following year.

**§ 2267. Immunity from tort liability**

Notwithstanding the fact that an interstate district may derive income from operating profit, fees, rentals, and other services, it shall be immune from suit and from liability for injury to persons or property and for other torts caused by it or its agents, servants or independent contractors, except insofar as it may have undertaken such liability under RSA 221:7 relating to workmen's compensation, or RSA 412:3 relating to the procurement of liability insurance by a governmental agency and except insofar as it may have undertaken such liability under Maine laws relating to workmen's compensation or Maine laws relating to the procurement of liability insurance by a governmental agency.

**§ 2268. Administrative agreement between commissioners of education**

The commissioners of education of New Hampshire and Maine may enter into one or more administrative agreements prescribing the relationship between the interstate districts, member districts, and each of the 2 state departments of education, in which any conflicts between the 2 states in procedure, regulations, and administrative practices may be resolved.

**§ 2269. Amendments**

Neither state shall amend its legislation or any agreement authorized thereby without the consent of the other in such manner as to substantially adversely affect the rights of the other state or its people hereunder, or as to substantially impair the rights of the holders of any bonds or notes or other evidences of indebtedness then outstanding or the rights of an interstate school district to procure the means for payment thereof. Subject to the foregoing, any reference herein to other statutes of either state shall refer to such statute as it may be amended or revised from time to time.

**§ 2270. Inconsistency of language**

The validity of this compact shall not be affected by any insubstantial differences in its form or language as adopted by the 2 states.

**§ 2271. Separability**

If any of the provisions of this compact or legislation enabling the same shall be held invalid or unconstitutional in relation to any of the applications thereof, such invalidity or unconstitutionality shall not affect other applications thereof or other provisions thereof, and to this end the provisions of this compact are declared to be severable.

**PART 3****ELEMENTARY AND SECONDARY EDUCATION****CHAPTER 201****GENERAL PROVISIONS****§ 3001. School days**

The following provisions shall apply to school days.

1. **Number.** A school administrative unit shall operate its schools at least 180 days a year. At least 175 days shall be used for instruction. No more than 5 days may be used for in-service education of teachers, administrative meetings, parent-teacher conferences, records days and similar activities.

2. **Equal terms.** A school administrative unit shall operate its schools so that their regular annual sessions are as equal in length as practicable.

3. **Attendance records.** A school administrative unit shall record attendance on those days when both students and teachers attend.

4. **Waiver.** The commissioner may reduce or waive the requirements of subsection 1 on application of a school board. An application shall be supported by written reasons.

5. **Noncompliance.** A school administrative unit which fails to comply with this section may not receive its state school subsidy until it provides for future compliance.



**§ 3002. Holidays**

The following provisions shall apply to school holidays.

1. Unconditional holidays. Public schools shall close on the following days:

- A. New Year's Day, January 1st;
- B. Patriot's Day, the 3rd Monday in April;
- C. Memorial Day, May 30th;
- D. Independence Day, July 4th;
- E. Labor Day, the first Monday in September;
- F. Columbus Day, the 2nd Monday in October;
- G. Veteran's Day, November 11th;
- H. Thanksgiving Day, as designated by the Governor; and
- I. Christmas Day, December 25th.

2. Conditional holidays. Public schools shall close on the following days, subject to the conditions specified for each holiday:

A. Washington's Birthday, the 3rd Monday in February. The school board may vote to keep its schools open and to observe Washington's Birthday with an appropriate exercise; and

B. Arbor Day, as designated by the Governor. Arbor Day shall be observed for the purpose designated by the Governor.

3. Special observances. Public schools shall hold the following special observances.

A. Lincoln's Birthday shall be observed by studying the life and character of Abraham Lincoln during part of the school day.

B. John F. Kennedy Day, November 22nd, shall be observed by studying the life and character of John F. Kennedy during part of the school day.

C. Temperance Day, the first day of March, shall be observed by studying the history and benefits of temperance laws for at least 45 minutes. The commissioner shall prepare appropriate materials for this observance.

4. Sunday holidays. When a holiday or special observance falls on a Sunday, the following Monday shall be considered the holiday or day of special observance.

**§ 3003. Facilities**

The following provisions shall apply to school facilities.

1. Maintenance and repairs. A school administrative unit shall repair, improve and maintain its facilities with funds from its own budget.

2. **Lease.** A school administrative unit may lease facilities and other property.

A. The term of a lease shall be at least equal to the period during which similar property of the unit is used. A lease may not exceed a term of 10 years.

B. A lease of classroom space shall provide for its exclusive use by the unit. A lease may provide for the nonexclusive use of other property, but that property may be used for housing only in emergencies.

C. Leased property shall be considered property of the unit in all respects.

D. A lease may not be eligible for the state school subsidy unless it is approved by the commissioner before it is signed.

#### § 3004. Textbooks

The following provisions shall apply to textbooks.

1. **Free textbooks.** A school administrative unit shall provide its students with textbooks and necessary instructional materials and equipment at the expense of the school administrative unit.

2. **Purchased textbooks.** The parent of a student may buy required textbooks for that student's exclusive use.

3. **Rules.** A school board may adopt rules for distributing and preserving textbooks and other materials and equipment provided by the unit.

#### § 3005. Secret societies prohibited

Secret societies shall be prohibited as follows.

1. **Prohibition.** Secret fraternities or societies in or associated with public schools shall be prohibited.

2. **Enforcement.** School boards and school officers shall enforce this section.

3. **Penalty.** A student who joins or participates in a secret fraternity or society may be expelled or punished in another appropriate way.

#### § 3006. Dissemination of information

The United States Family Education Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568, and the United States Education of All Handicapped Children Act, Public Law 94-142, shall govern the dissemination of information about students.

#### § 3007. Privileged communications

1. **Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Client" means a person who has actively sought or is in the process of seeking professional help from a school counselor.

**B. "School counselor"** means a person who is employed as a school counselor in a school setting, including elementary or secondary school counselors or a person who works in a school setting at a post-secondary level, and who:

- (1) Is certified as a school counselor by the department; or
- (2) Possesses a minimum of a master degree in guidance and counseling.

**2. Privileged communication.** A school counselor may not be required, except as provided by this section, or divulge or release information which he may have gathered in his counseling relation with a client or with the parent or guardian of a minor client. A counseling relation and the information resulting from it shall be kept confidential consistent with the professional obligations of the counselor.

**3. Exceptions.** This section shall not apply to the extent that disclosure of information is necessary:

- A.** To comply with Title 22, section 4011; and
- B.** To report to an appropriate authority or to take appropriate emergency measure when:
  - (1) The client's condition requires others to assume responsibility for him; or
  - (2) There is clear and imminent danger to the client or others.

#### § 3008. Civil liability

The following provisions apply to civil liability.

**1. Reasonable force.** A teacher or other person entrusted with the care or supervision of a person for special or limited purposes may not be held civilly liable for the use of reasonable force against a person who creates a disturbance if he reasonably believes it is necessary to:

- A.** Control the disturbing behavior; or
- B.** To remove the person from the scene of the disturbance.

**2. Exceptions.** Subsection 1 shall not apply to the intentional or reckless use of force that creates a substantial risk of death, serious bodily injury or extraordinary pain.

**3. Effect on civil liability.** This section may not be construed to increase the scope of potential civil liability of a teacher or other person entrusted with the care of supervision of a person for special or limited purposes.

### CHAPTER 203

#### STUDENT ELIGIBILITY

#### § 3101. Age

The following provisions apply to enrollment in a public school.

1. **Eligibility to enroll.** A person 5 years of age or older and under 20 years of age may enroll as a full-time student or, with the consent of the school board, as a part-time student, in the public schools of the school administrative unit where he resides.

2. **Minimum ages.** The following are minimum ages necessary for student enrollment in a school administrative unit.

A. A person who will be at least 6 years old on October 15th of the school year may enroll in grade one.

B. A person who will be at least 5 years old on October 15th of the school year may enroll in a one-year kindergarten if it is offered.

C. A person who will be at least 4 years old on October 15th of the school year may enroll in a 2-year kindergarten if it is offered.

3. **Exceptions.** The following are exceptions to subsection 2.

A. A war veteran who has not completed high school before his 18th birthday may enroll in the public schools in the school administrative unit where he resides until he graduates or reaches the age of 25.

B. A person who was enrolled in a public kindergarten or grade one in another state may enroll in kindergarten or grade one, as the case may be, in the school administrative unit where he becomes a resident.

C. A person who was enrolled in kindergarten in this State under paragraph B, may enroll in grade one upon satisfactory completion of kindergarten.

D. A person who was enrolled in a public kindergarten in another state and was promoted to grade one may enroll in grade one in the school administrative unit where he becomes a resident.

4. **Rules.** A school board may adopt rules to carry out this section.

#### § 3102. Residence

1. **Definitions and rules of construction.** For the purposes of this section, the following definitions and rules of construction shall apply.

A. "Parent" means the parent or guardian with legal custody.

B. A federal installation shall be considered part of the school administrative unit in which it is located.

2. **General rule.** A person shall be considered a resident of the school administrative unit where his parent resides.

3. **Exceptions.** The following are exceptions to this section.

A. A state ward shall be considered a resident of the unit where he is placed.

**B. A person, other than a state ward, residing with another person who is not his parent, shall be considered a resident of the school administrative unit where he resides if the superintendent of the unit finds that:**

- (1) It is undesirable and impractical for that person to reside with his parent, or that other extenuating circumstances exist which justify his residence in the unit; and
- (2) That person is residing in the school administrative unit for other than just education purposes.

**C. The commissioner shall review the superintendent's findings under paragraph B, on the request of that person's parent. The commissioner's decision shall be final and binding.**

**D. A person who is placed by a state agency, child placement agency or parent in a nonfamily foster home shall be considered a resident of the school administrative unit where the foster home is located if:**

- (1) The state agency, child placement agency or parent proves to the school administrative unit's satisfaction that the costs of educating that person will be paid to the school administrative unit in the year they are incurred; and
- (2) The school administrative unit has agreed to accept tuition students under this Title.

**E. A person living at any light fog warning or life saving station shall be considered a resident of the school administrative unit where he chooses to enroll.**

**F. A person shall be considered a resident of the school administrative unit where he temporarily resides if he is living with a parent who moves from place to place as part of his employment. This paragraph may not be construed to abridge that person's rights in the school administrative unit where he permanently resides.**

**4. Effect on other rights. This section may not supersede the right of any person to attend school under sections 3203, subsection 3, paragraphs A to C, section 4053 or under chapter 301.**

#### **§ 3103. Summer school tuition**

**The following provisions apply to summer school tuition.**

**1. Tuition. A school administrative unit may charge tuition for enrollment in a summer school.**

**2. Maximum amount. Tuition may not exceed the following:**

**A. In the first summer of its operation, the average cost per student in all summer schools for the preceding summer;**

**B. When a summer school is operated for 2 or more school administrative**

units and is operated alternately by a different unit each summer, the per student cost for the preceding summer; and

C. In all other cases, the per student cost for the preceding summer.

3. Equality. Tuition in a summer school shall be the same for all students who are Maine residents.

4. Rules. The commissioner shall adopt rules for determining the cost per student under this section.

#### § 3104. Special expenses

The following provisions apply to special expenses.

1. Transportation for temporary residents. The superintendent of each school administrative unit shall:

A. Inform the commissioner of any student who temporarily resides more than 2 miles from the school where he is enrolled if the school board deems transportation advisable for that student; and

B. Obtain transportation or board for that student if the commissioner orders him to do so.

2. Transportation for residents of certain property. A superintendent shall:

A. Inform the commissioner of any student who resides with a parent on state property in a municipality of fewer than 100 residents; and

B. Obtain transportation or board for that student if the commissioner orders him to do so.

3. Tuition for certain residents. A superintendent shall:

A. Inform the commissioner of any student who resides with a parent on state property in a municipality of fewer than 100 residents if no public school exists within that municipality; and

B. Inform the commissioner of the tuition required for that student.

4. Reimbursement. The commissioner may annually in December reimburse from the department appropriation for this purpose, any school administrative unit for the expenses incurred under this section.

#### § 3105. Enrollment in other school administrative units

The following provisions apply to enrollment in another school administrative unit.

1. Private payment. A person may enroll in an elementary school in a school administrative unit other than the one where he resides if:

A. The school board of the school administrative unit where he wants to enroll consents; and

**B. He pays tuition equal to the per student cost in that school.**

**2. Public payment. A person may enroll in an elementary school:**

**A. In another school administrative unit when the school administrative unit where he resides has contracted for elementary school services;**

**B. In a school administrative unit adjacent to the school administrative unit where he resides if:**

**(1) That person lives too far from any public elementary school in the school administrative unit where he resides;**

**(2) The school boards of the 2 school administrative units agree on terms; and**

**(3) The school administrative unit where that person resides pays the agreed tuition;**

**C. In a school administrative unit in another state adjacent to the school administrative unit where he resides if:**

**(1) Either:**

**(a) The school administrative unit where he resides does not operate an elementary school; or**

**(b) That person lives too far from any public elementary school in the school administrative unit where he resides; and**

**(2) The school administrative unit where that person resides pays the agreed tuition and provides transportation; and**

**D. In another school administrative unit or a private school of the unit where he resides:**

**(1) Does not operate an elementary school;**

**(2) Has not contracted with another school administrative unit for elementary school services; and**

**(3) The school administrative unit where that person resides pays tuition. Tuition to a public school may not exceed the cost per student of that school, as determined by the commissioner, unless the school board agrees. Tuition to a private school may not exceed the average cost per student in all public elementary schools for the preceding year, as determined by the commissioner.**

**3. Tuition payments. The following provisions apply to tuition payments.**

**A. Tuition shall be paid under subsection 2 within 30 days of the billing date.**

**B. If tuition is not paid according to paragraph A, the superintendent of the school administrative unit, or the principal of the private school, to whom**

payment is due shall inform the commissioner. The commissioner shall pay the tuition due and shall deduct that amount from the state school subsidy to the school administrative unit owing tuition.

4. Acceptance of students. A school administrative unit shall accept tuition students if the sending unit has a resident pupil count of less than 11 pupils on April 1st and the state board orders the unit to accept the students.

**CHAPTER 205**  
**SCHOOL RECORDS**  
**SUBCHAPTER I**  
**STUDENT RECORDS**

**§ 3201. First enrollment**

The following provisions apply to a student's first enrollment.

1. Duty of students. A person who enrolls for the first time in a public school shall provide his teacher with an attested copy of his birth certificate within 60 days of enrollment.

2. Duty of parent. The following provisions apply to the duties of parents.

A. A parent of a person who enrolls shall provide that person with an attested copy of his birth certificate.

B. A parent who refuses or unreasonably neglects to comply with paragraph A shall be fined not more than \$5.

3. Duties of public offices. The following are duties of public offices.

A. A teacher shall inform the superintendent of his school administrative unit of the name of any student who has not complied with subsection 1.

B. A superintendent shall inform the State Registrar of Vital Statistics of the name of a student who has not complied with subsection 1 and the name and address of the parent of that student.

C. The State Registrar of Vital Statistics shall file a complaint with the nearest District Court whenever he believes that a parent has not complied with subsection 2.

D. The State Registrar of Vital Statistics shall provide file copies of any relevant records in his possession on the request of a parent of a student.

**§ 3202. Attendance records**

1. Duty of school committee. A school board shall appoint a person to maintain accurate records of all students attending public schools in the unit.

2. Contents. The attendance records shall contain the following:



- A. The name of each student;
  - B. His birth date;
  - C. Dates of his entering and leaving school in the unit;
  - D. The number of days attended; and
  - E. The number of days late for school.
3. Access. Attendance records shall be made available to the school board at any time.
4. Duty of record keeper. The record keeper shall provide the school board with the information they request whenever they request it.

§ 3203. Annual student count

The following provisions apply to the annual counting of students.

1. Duty of superintendent. On April 15th and October 15th the superintendent of each school administrative unit and the principal of each private school shall inform the commissioner of the number of students attending their schools and in the case of public schools the numbers of students residing in their school administrative unit. This information shall be supplied on forms provided by the commissioner.

2. Student count. A student residing in the school administrative unit may be considered in attendance on April 15th only if:

- A. He attended school at least 85% of the time between October 15 and April 15th, if he was considered in attendance on October 15th; or
- B. He attended school at least 85% of the time between the date of his first enrollment and April 15th, if he was not considered in attendance on October 15th.

Excused absences and absences due to illness shall not be considered absences under this subsection.

3. Transfers. The following provisions apply to transfers of pupils from one school administrative unit to another.

- A. A superintendent may approve the transfer of a student from that school administrative unit to another if:
  - (1) He finds that a transfer is in the student's best interest; and
  - (2) The student's parent approves.

The superintendent shall notify the commissioner of any transfer approved under this paragraph.

B. On the request of the parent of a student requesting transfer under paragraph A, the commissioner shall review the transfer. His decision shall be final and binding.

**C. The superintendent shall annually review any transfer approved under this subsection.**

**D. For purposes of the state school subsidy, a student transferred under this subsection shall be considered a resident of the school administrative unit to which he is transferred. For purposes of local leeway under section 10211, subsection 3, a student transferred under this subsection shall be considered a resident of the largest municipality in the school administrative unit to which he is transferred.**

**E. A school administrative unit may not charge tuition for a transfer approved under this subsection.**

**§ 3204. Financial records**

**The following provisions apply to financial records.**

**1. Audit. A school board shall provide for an annual audit of a school administrative unit's income and expenses.**

**2. Fiscal year. The fiscal year of an audit shall be from July 1st to June 30th.**

**3. Auditors. Audits shall be conducted by:**

**A. The Department of Audit;**

**B. A qualified public accountant; or**

**C. A person or firm recognized as competent by training and experience.**

**4. Report to commissioner. On or before November 1st, the school board shall provide the commissioner with:**

**A. A copy of the audit; and**

**B. Assurance that the audit has been conducted; that the records were found to be satisfactory and accurate; and that adequate substantiation for expenses and payments were on file.**

**5. Records. Financial records shall be kept for 3 years after the end of the fiscal year. They shall be available to authorized persons at all times.**

**§ 3205. Federal audits**

**The following provisions apply to federal audits.**

**1. A school board of a school administrative unit which accepts federal funds shall hire auditors and pay for any audit of federal programs.**

**2. Report to commissioner. The auditor shall provide the commissioner with a copy of his audit.**

**3. Use of audit. The commissioner may use these audits to provide the Federal Government with any information it requires.**

4. **Rules.** The commissioner shall adopt rules to carry out this section which are consistent with federal requirements.

§ 3206. **Annual report**

The following provisions apply to annual reports.

1. **Duty of superintendent.** The superintendent shall make an annual report to the commissioner under oath. The report shall contain all information required to be reported under this chapter for the year ending July 1st.

2. **Penalty.** A school administrative unit whose superintendent fails to make the report shall be subject to the penalties of section 163.

**SUBCHAPTER II**

**EMPLOYEE RECORDS**

§ 3251. **Employee records**

The following provisions apply to employee records.

1. **Contents.** A school administrative unit shall keep a record on each employee as follows:

- A. Dates of employment;
- B. Regular and extracurricular duties, including all courses taught in that school administrative unit;
- C. Post-secondary educational institutions attended;
- D. Major and minor fields of study at post-secondary educational institutions; and
- E. Degrees received and dates awarded.

2. **Access.** The following provisions apply to access of employee records.

A. These records and any written decision involving disciplinary action shall be available for inspection and copying by any person.

B. Except as provided in paragraph A, information in any form relating to an employee or applicant for employment, or to his immediate family, shall be kept confidential if it relates to the following:

- (1) Applications for employment;
- (2) Medical conditions, including mental or emotional disorders;
- (3) The quality or adequacy of his work;
- (4) Credit rating or history;
- (5) Personal history, general character or conduct;
- (6) Complaints, alleged misconduct, or disciplinary action; and

(7) Social Security number.

§ 3252. Employee review

The following provisions apply to employee review of records.

1. Right to review. An employee or former employee of a school administrative unit, or his representative, is entitled to review his personnel file on written request to the superintendent.

2. Time and place. Review of a personnel file shall take place where the file is kept during normal school hours.

3. Contents. For purposes of this section, a "Personnel file" includes, but is not limited to:

A. Formal or informal work evaluation; and

B. Reports relating to general character, credit worthiness, work habits, compensation and benefits.

CHAPTER 207  
ATTENDANCE  
SUBCHAPTER I  
ATTENDANCE

§ 3301. Compulsory attendance

The following provisions apply to compulsory attendance.

1. Requirement. A person 7 years of age or older and under 17 years shall attend a public school during its regular annual session.

2. Exceptions. Compulsory attendance shall not apply to the following:

A. A person who graduates from high school before his 17th birthday;

B. A person who has:

(1) Passed his 15th birthday or completed the 9th grade;

(2) Has permission to leave school from his parent;

(3) Has permission to leave school from the school board or its designee; and

(4) Has agreed in writing with his parent and the school board or its designee to meet annually until his 17th birthday to review his educational needs.

A person who has complied with subparagraphs (1) and (2) may appeal to the commissioner if the school board or its designee denies him permission to leave school;

**C. A person whose absence is excused for the following reasons:**

- (1) Personal illness;
- (2) An appointment with a health professional that must be made during the regular school day;
- (3) Observance of a recognized religious holiday when the observance is required during the regular school day;
- (4) A family emergency; or
- (5) A planned absence for a personal or educational purpose which has been approved in advance;

**D. A person who obtains equivalent instruction which has been approved by the school board.**

- (1) A person is entitled to appeal to the commissioner if the school board refuses its approval under this paragraph.
- (2) A person may not be excused under this paragraph for attendance at a private school, unless he files with the school board a certificate which shows his attendance and is signed by the school's principal; or

**E. A person whose absence is excused under section 3302 or 3351.**

**3. Parent's responsibility.** The parent of a person subject to subsection 1 shall be responsible for their compliance.

**4. Rules of construction.** An absence of 1/2 day or more shall be considered noncompliance with subsection 1.

#### **§ 3302. Work programs**

The following provisions apply to work programs.

**1. Approval.** A person subject to section 3301, subsection 1, shall be excused if he:

- A. Is 14 years of age or older;
- B. Is participating in a suitable program of work, work study or training;
- C. Has his parent's consent; and
- D. The principal approves.

**2. Appeal.** A parent may appeal to the school board if the principal refuses to approve under subsection 1.

**3. Student involvement.** A student requesting to be excused under this section shall be consulted in the selection and formulation of work programs.

**4. Special work permit.** The commissioner and the Director of the Bureau of Labor shall jointly issue a special work permit for nonhazardous occupations to a student excused under this section who is ineligible for a regular work permit.

**§ 3303. Administration**

1. **School board's responsibility.** School boards shall administer this subchapter.
2. **Rules.** School boards shall adopt rules to carry out this subchapter. They shall file a copy with the commissioner.
3. **Commissioner's responsibility.** The commissioner shall guide school boards in adopting these rules.

**SUBCHAPTER II  
HABITUAL TRUANTS**

**§ 3351. Habitual truants**

1. **Definition.** A person is an habitual truant if he is:
  - A. Subject to sections 3301 and 3302; and
  - B. Absent from school without excuse for the equivalent of 10 full days, or for at least 1/2 day on 7 consecutive school days, within any 6-month period.
2. **Procedure.** The following provisions apply to procedure when a person is an habitual truant.
  - A. If a principal of a public school determines that a person is an habitual truant, he shall inform the superintendent. The superintendent shall first try to correct the problem informally.
  - B. If the superintendent is unable to correct the problem informally, he shall refer the matter to the school board along with the principal's report and any other useful information.
  - C. The school board shall call a hearing and shall notify the parent of the following in writing at least 7 days in advance:
    - (1) Date and time of the hearing;
    - (2) Purpose of the hearing;
    - (3) Their right to inspect the child's attendance records and principal's report; and
    - (4) The necessity of their and the child's presence at the hearing.
  - D. If the school board determines that the person is an habitual truant, it shall either:
    - (1) Order the person to comply with section 3301, subsection 1, and advise the parent of his responsibility under section 3301, subsection 3; or
    - (2) Waive the requirements of section 3301, subsection 1, if the person is 14 years of age or older.

**E.** A parent may appeal the decision of the school board to the commissioner. The commissioner shall appoint a fair hearing officer to hear the appeal. The fair hearing officer shall report to the commissioner on the testimony presented and shall recommend a disposition to the commissioner. The commissioner shall review the report and shall affirm, modify or reverse the school board's decision.

**3. Reports.** The following provisions apply to reports.

**A.** A superintendent shall submit an annual report to the commissioner before October 1st. The report shall:

- (1) Identify the number of habitual truants in the unit in the preceding school year;
- (2) Describe the unit's efforts to deal with habitual truancy;
- (3) Account for actions brought under this section; and
- (4) Include any other information on truancy requested by the commissioner.

**B.** The commissioner shall submit an annual report to the Governor and the Legislature before January 1st. The report shall aggregate the information provided by superintendents and shall evaluate the effect of state laws on the incidence of truancy.

**§ 3352. Attendance officers**

The following provisions apply to attendance officers.

**1. Election.** The following provisions apply to the election of attendance officers.

- A.** A school board shall annually elect an attendance officer or officers.
- B.** The attendance officer shall be elected at the first meeting of the school board after its election.
- C.** Vacancies shall be filled as they occur.

**2. Duties.** An attendance officer shall:

- A.** Investigate all cases of alleged habitual truancy and report to the school board;
- B.** When directed in writing by the school board or the superintendent, file a complaint under section 3353;
- C.** When notified by a teacher that a student's attendance is irregular, arrest and take that student to school if he is truant;
- D.** When directed in writing by the school board or the superintendent, visit places of employment in the unit during regular school hours to determine

whether a person under 14 years of age works there and report to the superintendent or the school board; and

E. Report in writing to the Director of the Bureau of Labor if, while acting under paragraph D, he finds that any person is illegally employed under Title 26, chapter 7.

3. Work permits. On request of an attendance officer acting under subsection 2, paragraph D, the person in charge of a place of employment shall produce all permits required to be kept under Title 26, chapter 7.

4. Compensation. A school board may pay its attendance officer out of funds appropriated for that purpose.

5. Penalties. The following provisions apply to penalties.

A. An attendance officer who fails to perform his duties under this section shall be punished by a fine of not less than \$10 nor more than \$50.

B. A school administrative unit which fails to perform its duties under this section shall be subject to section 163.

#### § 3353. Enforcement

1. Offense. The following conduct shall constitute an offense under this subchapter and subchapter III:

A. Having control of an habitual truant and being responsible for his truancy;

B. Inducing a person to violate section 3351, subsection 1; or

C. Harboring or concealing a person while he is in violation of section 3301.

2. Jurisdiction. The District Court shall have jurisdiction of these offenses.

3. Process. Warrants and legal process issued by a court to enforce this section may be directed to and executed by the attendance officer of the school administrative unit where the offense is alleged to have been committed.

4. Penalties. The following provisions apply to penalties.

A. A person guilty of an offense under subsection 1 shall be punished by a fine of not more than \$25 or by imprisonment for not more than 30 days. Fines collected under this paragraph shall be paid to the school administrative unit where the offense was committed.

B. The court may require as a condition of probation that the offender undergo counseling by a professional selected by the offender, with the court's approval, or by the court. The counselor shall submit a written report to the court and to the offender.



**SUBCHAPTER III**  
**DROPOUTS**

**§ 3401. Statement of purpose**

School attendance shall be compulsory because education is essential to the preservation of the rights and liberties of the people. To safeguard these rights and liberties further, and to ensure equal access to educational opportunity, the public schools should help those students in need find appropriate alternatives to regular school curricula and should maintain contact with dropouts.

**§ 3402. Definitions**

As used in this subchapter, unless the context otherwise indicates, a “dropout” means any person under the age of 17 who has withdrawn or been expelled from school before graduation or completion of a program of studies and who has not enrolled in another educational institution or program.

**§ 3403. Positive action committee**

The following provisions apply to the positive action committee.

1. **Committee.** A superintendent responsible for a grade level from 9 to 12 shall establish a positive action committee.

2. **Membership.** The positive action committee shall be composed of the following members:

- A. A member of the school board selected by that board;
- B. A school official selected by the superintendent;
- C. Two teachers or school guidance counselors selected by the unit’s teachers’ organization;
- D. Two parents of students enrolled in a grade level from 9 to 12, selected by the organized parent group, or, if no organized parent group exists, by the school board;
- E. Two students enrolled in a grade level from 9 to 12 selected by the positive action committee members selected in paragraphs A to D;
- F. Two recent dropouts selected by the positive action committee members selected in paragraphs A to D; and
- G. Two residents of the municipalities within the school administrative unit selected by the positive action committee members selected in paragraphs A to D.

A positive action committee may increase its membership by majority vote.

3. **Terms and vacancies.** Members shall serve 2-year terms. Members may be reappointed. A vacancy shall be filled as if it were an original appointment.

4. **Chairman.** The positive action committee shall select a chairman from among its members. A chairman may not serve continuously for more than 2 years.

5. **Responsibilities.** The following provisions apply to responsibilities of the positive action committee.

A. The positive action committee shall:

- (1) Study the dropout problem;
- (2) Develop a plan for dealing with it; and
- (3) Submit the plan to the school board.

B. The school board shall:

- (1) File its plan with the department; and
- (2) Inform the department what parts of the plan will become policy in the unit.

C. The positive action committee shall consider the following when developing its plan:

- (1) Reasons why students drop out of school;
- (2) Maintenance of continuing contacts with recent dropouts in order to extend opportunities for alternate educational programs, counseling and referral;
- (3) Education of teachers and administrators about the dropout problem;
- (4) Use of human services programs to help dropouts;
- (5) The school administrative unit's policies on suspension, expulsion and other disciplinary action; and
- (6) Discriminating practices and attitudes within the school administrative unit.

6. **Annual review.** The positive action committee shall meet at least annually to review its plan and to make recommendations to the school board. The school board shall inform the department of any changes it adopts.

7. **Department assistance.** The department shall provide reasonable technical assistance to a positive action committee on request.

#### § 3404. Programs

1. **Student involvement.** A student requesting to participate in programs for dropouts and truants shall be consulted in the selection and formulation of those programs.

2. **Pupil count.** For state school subsidy purposes, a student enrolled in a

program for dropouts and truants shall be considered as 1/10 of a student if he enrolls in a semester credit course or its equivalent leading to high school graduation. A student may not be considered as more than one student under this formula.

3. Programs outside the school administrative unit. The following provisions apply to programs outside the school administrative unit.

A. If a school administrative unit has no program for dropouts and truants and if the superintendent approves, students in that unit may enroll in programs in another school administrative unit or a private school.

B. The students' school administrative unit shall pay tuition equal to no more than 1/10 of the state school subsidy per student per semester course or its equivalent in the students' unit.

C. The commissioner shall adopt rules to administer this subsection.

**CHAPTER 209**  
**HEALTH AND SAFETY**  
**SUBCHAPTER I**  
**GENERAL PROVISIONS**

**§ 3501. Student health**

The following provisions apply to student health.

1. Duty of teacher. A teacher shall inform the superintendent when he believes that a student is so filthy or diseased that he is offensive or dangerous to others.

2. Duty of superintendent. A superintendent informed by a teacher under subsection 1 shall inform the student's parent and shall exclude the student from the public schools until he is no longer offensive or dangerous.

3. Duty of parent. A parent informed by a superintendent under subsection 2 shall promptly do what is reasonably necessary to ensure that the student is no longer offensive or dangerous.

4. Penalty. Any parent who fails to comply with subsection 3 shall be fined not more than \$5 for the first offense or \$10 for subsequent offenses.

**§ 3502. Firearms**

1. Prohibition. A person may not possess a loaded firearm on public school property or discharge a firearm within 500 feet of school property.

2. Exception. Subsection 1 shall not apply to:

A. Law enforcement officials; or

B. A supervised educational program.

3. **Penalty.** A person who violates this section is guilty of a Class E crime.

## SUBCHAPTER II

### SCHOOL LUNCH AND MILK PROGRAM

#### § 3551. Acceptance of federal law

The State shall comply with the following laws in consideration of the receipt of benefits under them:

1. **The National School Lunch Program Act.** The National School Lunch Program Act, enacted June 4, 1946, as amended; and
2. **The Child Nutrition Act.** The Child Nutrition Act, enacted October 11, 1966, as amended.

#### § 3552. School food service programs

Public schools shall provide school food service programs as follows.

1. **Participation.** A public school shall participate in the National School Lunch Program. It shall provide meals of Type A quality as determined by the United States Department of Agriculture.
2. **Exceptions.** Subsection 1 shall not apply to a school limited to grades 9 to 12.
3. **Administration.** The school board shall administer and operate the food service programs.
4. **Funds.** The following shall be used to pay for the administration and operation of food service programs:
  - A. State funds, gifts and appropriations for school food service programs; and
  - B. Receipts from the sale of meals under food service programs.
5. **Rules.** The commissioner shall adopt or amend, with the board's approval, rules under this subchapter, including rules about the qualifications of food service programs personnel.
6. **Nutrition report.** The commissioner may assess the nutritional benefits of school lunch programs and report to the state board.
7. **Technical assistance.** The commissioner may give technical assistance to a school board concerning a food service program and may assist in training food service program personnel.
8. **Exceptions.** The following shall be exempt from subsection 1:
  - A. A school administrative unit authorized by the commissioner under subsection 9 to postpone the establishment of the program; and
  - B. Secondary schools.

9. Application for postponement. A school administrative unit which has been granted a postponement of 3 years may apply to the commissioner every 3 years for an additional 3-year postponement. The commissioner, with the approval of the state board, may grant a postponement if:

- A. The school board has held a public hearing on its proposed application; and
- B. One of the following conditions are met:
  - (1) The school administrative unit lacks space for the program and there is no appropriate alternative source of meals for the students;
  - (2) It is impossible for the unit to contract for or otherwise obtain Type A meals for its students; or
  - (3) The lack of need for the program was evident at the public hearing.

10. Annual review. The commissioner shall annually review the conditions in the school administrative units which have been granted a postponement. If he finds that the conditions in a unit have changed so that a postponement is no longer warranted, he may require that the unit establish a National School Lunch Program at the start of the next school year. Whenever 1% of the residents of the unit petition the commissioner, he shall call a public hearing on the postponement prior to his next annual review.

#### § 3553. Federal funds

The Treasurer of State shall receive and disburse all federal funds received under this subchapter.

### SUBCHAPTER III

#### CHEST X RAYS

#### § 3601. Tuberculosis controls

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Infectious tuberculosis" means a disease demonstrated by symptoms which lead to a medical diagnosis of active tuberculosis.
- B. A person remains "infectious" until:
  - (1) Tuberculosis has been eliminated as the cause of the symptoms; or
  - (2) Tuberculosis has been made "inactive" as defined by the American Thoracic Society.

2. Exclusion from employment. A person with infectious tuberculosis may not work in a public school where he is exposed to students or where he is regularly required to be present.

3. Current employees. Current employees excluded from employment under

subsection 2 may use sick leave and shall retain the rights and privileges earned while employed.

4. New employees. The following provisions apply to new employees.

A. A person who has had infectious tuberculosis may not begin work in the public schools until he files a certificate with the school board.

B. The certificate shall:

(1) State:

(a) That within 90 days of the first day of work that person has had a standard tuberculosis skin test and that the results were negative; or

(b) If the results of a skin test were positive, the results of a standard full-chest x ray taken within 90 days were negative; and

(2) Be signed by either a physician, a registered nurse or other person approved by the Department of Human Services to administer and interpret tuberculosis tests.

C. In unusual cases or emergencies, a person may be employed in the public schools up to 30 days without complying with paragraph A if:

(1) That person is apparently healthy according to the school nurse or school physician;

(2) Tuberculosis tests are administered within 30 days after his first day of work; and

(3) The Department of Human Services has been informed in writing of his employment within 3 days after his first day of work.

D. Negative results from an x ray or other evidence satisfactory to the Commissioner of Human Services may be substituted for negative skin test results if there are medical reasons why a skin test should not be performed.

5. Retesting. The following provisions apply to retesting.

A. A person who has had infectious tuberculosis and who works in the public schools shall file a certificate with the school board on or before December 1st, biennially.

B. The certificate shall:

(1) State:

(a) That within the preceding 90 days that person has had a standard tuberculosis skin test and that the results were negative; or

(b) If the results of the skin test were positive, the results of a standard full-size chest x ray taken within 90 days were negative; and

(2) Be signed by either a physician, registered nurse or other person approved by the Department of Human Services to administer and interpret tuberculosis tests.

C. School employees who complete a preventive drug program approved by the Department of Human Services shall not be required to get a chest x ray.

6. Modifications. The Commissioner of Human Services may alter the requirements of this section wherever that alteration would not pose a threat to public health or wherever more frequent testing is necessary to protect public health. Modifications under this subsection may not extend beyond 4 years. They may not be renewed unless in writing.

7. State assistance. The Department of Human Services shall help provide medical services to comply with this section. The department may:

- A. Provide medicine for prevention drug programs for school employees; and
- B. Pay for x rays required in preventive drug programs for school employees.

8. Duty of administrative units. Each school administrative unit shall provide tuberculosis testing data to the Department of Human Services on the department's request.

9. Rules. The Department of Human Services may adopt rules to carry out this section.

10. Penalties. A person who fails to comply with this section shall be fined not less than \$20 nor more than \$200. Each day of noncompliance shall be considered a separate offense.

#### SUBCHAPTER IV SCHOOL PROGRAMS

##### § 3651. School physicians

The following provisions apply to school physicians.

1. Appointment. Each school board shall appoint at least one school physician for every 1,000 students in the school administrative unit.

2. Facilities. A school administrative unit may provide its school physicians with proper facilities.

3. Duties. A school physician shall:

A. Promptly examine and diagnose a student referred to him under this subchapter; and

B. Examine school employees and property if he believes it is necessary to protect the health of students.

4. Prohibition. A school physician may not treat a student examined under this subchapter unless he is also the student's personal physician.

**§ 3652. Examination of students**

Examination of students shall be conducted as follows.

1. Referrals. The school board shall refer a student to the school physician for examination or diagnosis if:

A. The student returns to school without a certificate of health from the local health officer or his personal physician after being absent due to illness;

B. The student's teacher believes that the circumstances surrounding the student's absence require a certificate of health; or

C. The student appears ill or suffering from a contagious disease and remains in school.

2. Screening for sight and hearing defects. Each student shall be screened periodically to determine whether they have sight or hearing defects. The commissioner shall adopt rules and shall provide school administrative units with assistance and materials to carry out this subsection. A student whose parent objects in writing to screening on religious grounds shall not be screened unless a sight or hearing defect is reasonably apparent.

**§ 3653. Miscellaneous**

1. Notice to parent. The school board shall inform the parent of a student suffering from a disease or defect.

2. Exclusion. A student showing symptoms of smallpox, scarlet fever, measles, chicken-pox, tuberculosis, diphtheria, influenza, tonsillitis, whooping cough, mumps, scabies or trachoma shall be excluded from the public schools as soon as safe and proper transportation is available. The local health officer and the superintendent shall be notified immediately.

3. Remote areas. In remote and isolated areas, a school board may make other arrangements to carry out the purposes of this subchapter.

**SUBCHAPTER V****SANITARY FACILITIES****§ 3701. Sanitary facilities**

Sanitary facilities shall be provided as follows.

1. Clean toilets. A school administrative unit shall provide clean toilets in all school buildings, which shall be:

A. Of the flush water closet type and connected to a sewer, filter bed or septic tank, or of another design approved by the Department of Human Services;

B. Separated according to sex and accessible only by separate entrances and exits;



- C. Installed so that privacy, cleanliness and supervision are assured; and
  - D. Free from all obscene markings.
2. Vaults and tanks. Each school administrative unit shall provide clean and operating vaults, tanks and accessories.
  3. Inspectors. The school board shall inspect annually the sanitary conditions of the school administrative unit's school buildings and the compliance with this section.
  4. Rules. The state board may adopt or amend rules to implement this section.
  5. Penalty. Failure to comply with this section shall be subject to section 163.

## SUBCHAPTER VI

### IMMUNIZATION

#### § 3751. Immunization

The following provisions shall apply to immunization.

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.
  - A. "Disease" means poliomyelitis, diphtheria, pertussis, tetanus, measles and rubella.
  - B. "School" means a public or private school.
2. Admission to school. A student may not be admitted to school without a certificate or other acceptable evidence of immunization unless his parent:
  - A. Agrees in writing to have his child immunized within 90 days;
  - B. Consents in writing to his child being immunized by a qualified public official or employee; or
  - C. States in writing that he does not want his child immunized for any of the following reasons:
    - (1) A physician states in writing that immunization may threaten the student's health;
    - (2) A physician states in writing that the student has already had the disease against which immunization is required;
    - (3) The parent is a bona fide member or adherent of a recognized religious organization whose teachings are contrary to this immunization requirement; or
    - (4) The parent is opposed to immunization for moral, philosophical or other personal reasons.

**3. Attendance. The following provisions apply to attendance.**

**A. A student may not attend school if the local health officials and the superintendent find that:**

- (1) The student has not been immunized; and**
- (2) His presence in school poses a clear danger that disease will spread to others.**

**B. The superintendent shall inform the student's parent of their finding and the provisions of this subsection.**

**C. If a student is absent from school under this subsection for more than 10 days, the superintendent shall arrange to provide education for the student until he can return to school.**

**4. Records. A school administrative unit shall keep standard immunization records on every student. Immunization records shall be part of permanent school records.**

**5. Rules. The commissioner shall adopt or amend rules to carry out this subchapter. Rules shall include standards for immunization.**

**6. Local option. A municipality may enact requirements which are more stringent than this subchapter.**

**CHAPTER 211  
CURRICULUM**

**§ 3801. Physical education**

**Physical education shall be provided as follows.**

**1. Programs. A school administrative unit shall provide courses in health, safety and physical education.**

**2. Enrollment. Students shall enroll in these courses under a study plan prepared by the commissioner.**

**3. Physical education report. In school administrative units that employ a director of physical education, the superintendent shall report to the commissioner, on forms prepared by him:**

- A. The number of students receiving physical education instruction;**
- B. The number of directors employed;**
- C. The salary of the directors; and**
- D. Other required information.**

**4. Rules and reports. The commissioner shall adopt or amend rules to carry out this section and may periodically require reports from superintendents.**

**§ 3802. Instruction in values**

Instruction in values shall be provided as follows.

1. **General.** A teacher in a public or private school shall teach his students about the values underlying our society and nation and their importance to its preservation.

2. **Minimum instruction in public schools.** A teacher in a public school shall spend at least 1/2 hour each school week teaching this subject in connection with other courses.

**§ 3803. Instruction in patriotism**

Instruction in patriotism shall be provided as follows.

1. **General.** A public secondary school shall offer a course on the principles of American government, including the United States and Maine Constitutions.

2. **Flag.** Teachers in a public school shall impress on students by suitable references and observances the significance of the flag. They shall teach them:

A. The cost, object and principles of our government;

B. The inestimable sacrifices made by our forefathers;

C. The important contribution made by all who have served in the armed services of our country since its inception; and

D. To love, honor and respect the flag.

3. **Graduation requirement.** A student may not graduate from a public secondary school unless he has satisfactorily completed the course offered under subsection 1.

4. **Rules.** The commissioner shall adopt or amend rules to carry out this section.

**§ 3804. Bible reading**

Bible reading shall be provided as follows.

1. **Periodic reading.** The Scriptures shall be read periodically in public schools. Emphasis shall be placed on the Ten Commandments, the Psalms, the Proverbs, the Sermon on the Mount and the Lord's Prayer.

2. **Prohibition.** There shall be no denomination or sectarian comment on these readings.

3. **Freedom of worship.** A student shall listen attentively to these readings and be free to worship in his own way.

**§ 3805. Moral instruction**

Moral instruction shall be provided as follows.

1. **Survey.** A school board may survey the religious affiliation of the students in its unit.

2. **Excused absence.** A school board may excuse students for one hour each week on a fixed day, if:

A. The student has his parent's consent; and

B. The student attends his own place of worship or some other suitable place and receives moral instruction according to his own religious affiliation.

A student excused under this subsection shall be considered in attendance during the time he is excused.

3. **Unexcused students.** Students not excused shall remain in school but shall not receive any educational advantage over excused students.

4. **Expense.** A unit may not incur any expense under this section except under subsection 1.

5. **Rules.** A school board may adopt or amend rules to carry out this section and may arrange for moral instructions with various places of worship.

## CHAPTER 213

### ELEMENTARY SCHOOLS

#### § 3901. Accreditation

The following provisions apply to accreditation.

1. **Application.** An elementary school may apply to the commissioner for accreditation.

2. **Standards.** The commissioner shall adopt accreditation standards with the approval of the state board. Standards shall relate to quality of instruction, curriculum and facilities among other things.

3. **Advisory committee.** The commissioner shall appoint a committee of professional and lay people to advise him in the adoption of standards.

## CHAPTER 215

### SECONDARY SCHOOLS

#### SUBCHAPTER I

#### APPROVAL AND ACCREDITATION

#### § 4001. Approval

Secondary schools shall be evaluated for basic approval and may be evaluated for accreditation. A school may not be given basic approval for attendance, tuition or subsidy purpose unless it meets the following requirements.

1. **Course of study approved.** It maintains a course of study approved by the commissioner.

2. **Length of school day.** It has a school day of sufficient length to allow the operation of its approved educational program.

3. **Minimum school year.** It has a minimum school year of 180 days, of which not less than 175 shall be actual school days and no more than 5 may be devoted to in-service education of teachers, administrative meetings, parent-teacher conferences, records days and other similar teacher work activities. The commissioner may reduce or waive the minimum number of days required on application from a school board. The application must be supported in writing with a statement of the reasons for the request.

4. **Certified teachers.** It employs only certified teachers.

5. **Pupil-teacher ratio.** It has a pupil-teacher ratio of not more than 30 to 1.

6. **Hygienic facilities and equipment.** It has safe and hygienic facilities and adequate equipment and supplies which comply with rules established by the Department of Human Services and the commissioner.

7. **Consecutive grades.** It is organized to include not less than 2 consecutive grades from 9 to 12.

8. **Records.** It has adequate, safely protected records.

9. **Size.** It meets the following size requirements.

A. If it enrolls fewer than 100 pupils, it may be approved on an emergency or continuing basis only after the school board has presented in detail reasons for the emergency or continuing approval.

B. If the commissioner determines that a school is geographically isolated and if it otherwise meets all the other requirements of this section, it shall receive approval for a 6-year period. The commissioner may terminate that approval because of the school's size only if the school receives at least 5-years' notice of that termination.

10. **Approval for certain nonpublic secondary schools.** Notwithstanding any other provision of this Title, the commissioner shall give approval for attendance and tuition purposes, to a private secondary school which is accredited by the New England Association of Colleges and Secondary Schools.

#### § 4002. Accreditation

For accreditation the following shall be required.

1. **Application of approved school.** An approved school may apply to the commissioner for recognition as an accredited school.

2. **Requirements.** The commissioner, with the approval of the state board, shall establish requirements for accreditation, which shall include nationally recognized standards, including:

A. **Quality of instruction;**

**B. School facilities; and**

**C. Curriculum content.**

**3. Advisory committee.** The commissioner shall appoint an advisory committee consisting of professional and lay persons to assist in the development of these standards. A school may not be accredited until it has been evaluated by an advisory committee qualified to appraise its functions and program success.

**4. Procedure for adoption of accreditation standards.** The commissioner shall adopt or amend rules on the requirements and standards for accreditation.

**§ 4003. Inspection of schools**

A secondary school receiving state aid shall be inspected by the commissioner. He shall determine what schools are approved for attendance, tuition and subsidy purposes and what schools are accredited.

**§ 4004. Junior high school defined**

A junior high school means a school which maintains a diversified program of studies approved by the commissioner, for grades or years as he shall prescribe, throughout the school year. A combination of 2 or more consecutive grades 6 through 9 may be included in a junior high school. A junior high school may be maintained in connection with or as a part of an approved accredited high school.

**§ 4005. Requirements for graduation**

The following shall be requirements for graduation.

**1. Requirement.** The requirements for graduation shall include American history and 4 years of English in a planned program approved by the commissioner.

**2. Exception.** A student who has satisfactorily completed the freshman year in a degree-granting institution may receive a secondary school diploma from the school he last attended, even if he did not meet these graduation requirements.

**SUBCHAPTER II**

**OUTSIDE STUDENTS**

**§ 4051. Accepting outside students**

If authorized by a school administrative unit's legislative body, a school board may accept students from outside the school administrative unit. The sending unit or family shall pay the tuition fixed by the board. The tuition assessed may not exceed the tuition rates established by section 3105.

**1. Sending schools authorization to contract.** The legislative body of a school administrative unit, which does not maintain an approved secondary school, may authorize its school board to contract and pay for the schooling of all or part of the secondary students within that school administrative unit. This subsection may not apply to a school administrative district.

2. **Eligible receiving schools.** A school board may contract with the school board of a nearby school administrative unit or academy located within the school administrative unit.

3. **Duration of contract.** The contract may be for one to 5 years.

4. **Formation of cooperative committee.** If a contract exists, the school boards of the contracting school administrative units may form a cooperative committee to implement the contract. This cooperative committee may be formed only by a majority vote of each school board and the trustees of the academy.

5. **Membership of cooperative committee.** In the absence of an agreement to the contrary the cooperative committee shall consist of a mutually agreed upon number of members from each school board and an equal number of trustees of the academy.

6. **Powers and duties of cooperative committee.** The cooperative committee may:

- A. Select and employ teachers for the academy;
- B. Fix their salaries;
- C. Arrange the course of study;
- D. Supervise the instruction; and
- E. Adopt, amend and enforce rules pertaining to other educational activities of the academy.

7. **Secretary ex officio.** The superintendent of the contracting school administrative unit in which the academy is located shall be secretary ex officio of the cooperative committee. The secretary shall be assigned supervisory duties determined by the cooperative committee.

8. **Tuition liability.** If a school administrative unit has made a contract, the tuition liability of the unit shall be the same as if an approved secondary school were maintained. The expenditure of a school administrative unit for students provided for in this section shall be subject to the conditions of section 4053.

§ 4052. **Students attending secondary schools in another school administrative unit**

The following applies to students attending secondary schools in other school administrative units.

1. **Definition.** For purposes of this section, a "school administrative unit" includes an island that does not have highway connections with the mainland and does not maintain a secondary school on the island.

2. **No secondary school.** A student whose parent resides in a school administrative unit which does not support, contract for or maintain an approved

secondary school may attend any approved secondary school to which he may gain entrance.

3. **Insufficient courses; time limitations.** If the secondary school which a student is otherwise entitled to attend does not offer 2 approved occupational courses of study, a 2-year course in mathematics or science or 2 approved foreign language courses, then the student may attend another approved secondary school to take the missing courses of study provided:

- A. He is able to gain admission to that other school;
- B. He has met the qualifications for attending his own secondary school; and
- C. He has notified his own school administrative unit by April 1st, before the start of each academic year, that he wishes to take the course not being offered by his school administrative unit. His school administrative unit shall notify him on or before July 15th of that year whether the course will be offered in the next academic year.

4. **Tuition payments.** Tuition payments for those students shall be as follows.

A. The school administrative unit in which an eligible student's parent resides shall pay the student's tuition in an amount up to the tuition rate provided in section 4053. The voters of the school administrative unit, at a regular or special meeting, may authorize a larger tuition rate to be paid.

B. The school administrative unit shall pay the student's tuition within 30 days of the billing date.

C. The receiving secondary school shall notify the superintendent of the sending school administrative unit of the name and grade of the accepted student.

D. The agreement shall continue only so long as the student maintains a satisfactory standard of deportment and scholarship and is regularly attending an approved secondary school.

5. **Books and supplies.** A receiving unit shall provide the student with textbooks, apparatus, equipment and appliances without charge.

#### § 4053. Reimbursement

The reimbursement to school administrative units for tuition and board for students attending secondary schools shall be as follows.

1. **Computation of tuition charge.** The tuition charge for secondary schools shall be the sum of all expenditures divided by the number of students. These figures shall be determined as follows.

A. Expenditures shall be all expenditures for public secondary education for the period July 1st to June 30th of the year immediately before the school year for which the tuition charge is computed, except expenditures for:



- (1) Special education;
- (2) Vocational education;
- (3) Community services;
- (4) Major capital outlay;
- (5) Debt retirement; and
- (6) Tuition and transportation.

**B.** The number of students shall be the average number of public secondary pupils enrolled on October 1st and April 1st of the same year.

**C.** The figure obtained by using the formulas of paragraphs A and B shall be divided by the average number of secondary students on October 1st and April 1st of the year immediately prior to the year for which the tuition charge is computed.

**D.** The tuition rate thus determined shall be adjusted by the average change in public secondary education costs for the 2 years immediately before the school year for which the tuition charge is computed. This adjustment shall be limited to a 6% increase.

**2. Maximum allowable.** The tuition charge determined under subsection 1, shall be the maximum legal tuition charge for a public secondary school, except that a school administrative unit may not charge more than the state average per pupil cost as adjusted or their own per pupil cost as adjusted, whichever is the lower.

**3. Private schools.** Tuition rates for private schools shall be computed as provided under subsection 1, except that expenditures and number of students shall be based on the expenditures and students of that private school.

**4. Private school maximum.** The maximum established by subsection 2, shall apply to private schools, except a private school may add an amount to that maximum which equals the insured value factor, but not to exceed \$75 per pupil in any one year. The insured value factor shall be computed by dividing 5% of the insured value of that school's buildings and equipment by the average number of pupils enrolled in the school on October 1st and April 1st of the year immediately before the school year for which the tuition charge is computed.

**5. Alternate secondary school payments.** A school administrative unit not maintaining a secondary school nor contracting for secondary school privileges may pay tuition for any student who either:

- A.** Resides in that unit with a parent and attends an approved secondary school in another state or county; or
- B.** Attends an approved secondary school in another state when that school specializes in the correction of physical defects and there is no similar program available to the student in this State.

This tuition payment may not exceed the average per pupil cost in all secondary schools of this State.

6. Commissioner's duty to pay accounts. The commissioner shall pay charges for tuition of students sent from a school administrative unit to an approved secondary school if those charges are not paid within 30 days of the billing date.

A. He shall pay the treasurer of the receiving unit so much as he finds to be rightly due.

B. The payment shall be made at the next subsequent monthly apportionment.

C. The commissioner shall charge the payment against the apportioned fund of the sending school administrative unit.

D. Superintendents or principals shall notify the commissioner whenever a sending school administrative unit is delinquent in its tuition payments.

7. Determination of responsibility. When a student is in custody of persons other than his parents, the school administrative unit where the student is placed may apply to the commissioner for a determination regarding which unit shall pay the cost of his education. The determination of the commissioner shall be binding.

8. Vocational rehabilitation. Notwithstanding the other limitations of this section, public and private schools may adjust their tuition rate for the express purpose of complying with the requirements of the United States Vocational Rehabilitation Act of 1973, Section 504, Public Law 93-112.

A. Projects, costs and the methods of financing to bring the facilities into compliance must receive prior approval of the commissioner.

B. The cost adjustment per pupil shall be calculated by dividing:

(1) The lesser of the actual compliance costs or debt retirement payments of the year immediately prior to the year for which the tuition charge is computed by; and

(2) The average number of students attending the school on October 1st and April 1st of the same year.

C. The adjustment of the tuition rate and the period of time the adjustment may be charged in subject to the approval of the commissioner.

D. The provisions of this subsection shall apply to minor capital projects which have received departmental approval before June 30, 1982.

§ 4054. Tuition payments for students in vocational education programs

Schools receiving tuition students who are enrolled in regular school day vocational education programs, as defined in section 5703, at vocational centers, satellites or vocational regions, may charge a tuition rate not to exceed  $\frac{2}{3}$  of the tuition rate as computed under section 4053.

**SUBCHAPTER III  
ACADEMIES**

**§ 4101. Approval of instruction**

The approval of instruction in academies shall be as follows.

1. **Requirements.** An incorporated academy in this State may provide approved secondary education as provided in sections 4052 and 4053 when in the judgment of the commissioner:

- A. The academy is prepared to give instruction equivalent to that required to be given in public secondary schools;
- B. Students attending the academy are qualified to receive the instruction; and
- C. The teachers in the academy are certified or licensed to give instruction in secondary school studies.

2. **Report to commissioner.** An academy receiving state funds, either directly or indirectly, and an academy approved for tuition and attendance purposes shall annually, on or before July 15th, report to the commissioner the information he may require.

**§ 4102. Rules of commissioner**

The commissioner may adopt or amend rules regarding tuition charges, accounting and other aspects of academy and school administrative unit relationships.

**§ 4103. Audit**

The following audit shall be made annually.

1. **Furnishing books and records; audit.** An academy eligible to receive tuition payments from school administrative units which are eligible for state subsidy aid under chapter 605 shall, on or before September 1st of each year, furnish to the State Auditor satisfactory proof that the books, accounts, financial documents and reports to the commissioner of the academy for the preceding fiscal year have been examined and found to be in satisfactory and accurate condition with proper vouchers on file. An audit shall be made by the Department of Audit or by individuals or firms recognized as competent auditors by training and experience or by qualified public accountants.

2. **Audit.** Audits by the State Auditor may be requested by 3 or more duly elected and qualified officers of the academy. This audit shall be conducted at the expense of the requesting academy except, when in the opinion of the commissioner, the audit is necessary.

**§ 4104. Penalty for noncompliance**

Academies which have not complied with section 4101 and section 4103 before

September 1st of each year may not receive tuition payments from school administrative units receiving state subsidy.

**SUBCHAPTER IV  
CONVERSION OF ACADEMIES TO  
SECONDARY SCHOOLS**

**§ 4151. Conversion to public school**

An academy may convert into a public secondary school by the following procedure.

1. Surrender of property by trustees. The trustees of an academy by majority vote of those trustees residing in the State shall surrender by conveyance, assignment or delivery, the property belonging to the academy, to:

- A. Municipal officers in the municipality where the academy is located;
- B. The school board of a school administrative district in which the academy is located;
- C. The trustees of a school fund in the municipality in which the academy is located; or
- D. The school board of a community school district which includes the municipality where the private school is located.

2. Receipt of property; duties. The following provisions shall govern the receipt of property from an academy.

- A. The municipal officers, trustees of the school fund, community school district trustees or school board shall be a board of trustees to take and hold property for maintaining a public secondary school.
- B. On receiving property, they shall use proper diligence to make it produce income for the support of the public secondary school.

**§ 4152. Duties of the school administrative unit receiving academy property**

The school administrative unit taking over the operation of the academy shall comply with the following requirements.

1. Support of school. The school administrative unit accepting the property in trust shall apply the income of the trust toward the support of a public secondary school to serve the municipality where the private school was located. It shall provide suitable accommodations for the school and shall operate the school as a public secondary school.

2. Qualifications necessary to entitle applicants to enter. The school board shall determine the qualifications necessary to entitle an applicant to enter or attend the public secondary school. A student may not attend it without a certificate to that effect.

3. Fees. All students residing within the school administrative unit having a certificate may attend the school without tuition. All students not residents of the school administrative unit may attend the school on the terms and conditions imposed by the school board.

**CHAPTER 217**  
**UNORGANIZED TERRITORY**  
**SUBCHAPTER I**  
**GENERAL PROVISIONS**

**§ 4201. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Unorganized territory. "Unorganized territory" means territory not part of a municipality.
2. Unorganized unit. "Unorganized unit" means an unorganized township, gore, strip, tract, surplus, point, patent, peninsula, island, deorganized town or plantation or any other distinct portion of the unorganized territory.

**SUBCHAPTER II**  
**SCHOOL PRIVILEGES**

**§ 4251. School privileges**

Children between the ages of 5 and 20 years who reside with a parent in unorganized territory shall be entitled to school privileges. These privileges shall be provided under the direction of the commissioner under rules adopted or amended by the commissioner in accordance with section 3 and adopted by the Governor.

**§ 4252. Elementary pupils**

1. Elementary school privileges provided. The commissioner may provide elementary school privileges by establishing and maintaining elementary schools in the unorganized territory or by sending the students to another public school as tuition students.
2. Admission by receiving school. Tuition students sent to a public school shall be admitted by the receiving school on receiving notice by the commissioner.
3. Benefits. Tuition students shall be entitled to all privileges and benefits and subject to the same rules as resident students of the school administrative unit.
4. Term. The minimum school year shall be 36 weeks.

5. **Tuition.** The commissioner shall pay tuition for each student in accordance with the proportional cost per pupil of the school attended or as agreed upon.

6. **Transportation and board.** Transportation and board may be paid in full or in part by the commissioner.

7. **Exception.** The commissioner may make arrangements for children living in the unorganized territory of Estcourt to attend a public school in Commission Scolaire Des Frontieres Sully, Province of Quebec. With his approval tuition shall be paid by the State for these students.

#### § 4253. Secondary students

1. **Qualified secondary students.** The commissioner may authorize a qualified student whose parent resides in the unorganized territory to attend an approved secondary school which accepts him.

2. **Tuition.** The commissioner shall pay the same amount for tuition as municipalities not supporting and maintaining an approved secondary school are required to pay, provided a student maintains a satisfactory standard of deportment and scholarship.

3. **Board.** The commissioner may pay board in full or in part for a student attending school as provided in subsection 1.

A. The commissioner shall determine when board for a student is necessary.

B. The commissioner may approve applications for boarding arrangements. He shall provide application forms.

C. The commissioner shall make payments for board for periods not less than one school month on receipt of a satisfactory attendance record of a student.

#### § 4254. Other students

The commissioner may establish evening schools, day schools, classes and educational activities for persons over 16 years of age residing in the unorganized territory and not attending public school.

#### § 4255. Children on government reservations

The commissioner may make special arrangements to provide elementary school privileges in cooperation with the United States Government for children residing with a parent at a light station, fog warning station, lifesaving station or other place within a United States government reservation.

### SUBCHAPTER III

#### COMMISSIONER'S POWERS

#### § 4301. General powers

The commissioner shall have the following general powers.

1. **Agents.** The commissioner may appoint agents for the unorganized territory who shall act as attendance officers and perform school duties delegated to them by the commissioner.

2. **Special attendance officers.** The commissioner may appoint special attendance officers for an unorganized unit. Attendance officers shall be subject to the provisions of sections 3352 and 4302.

3. **School buildings.** School buildings not privately owned in the unorganized territory are declared to be the property of the State. The commissioner may hold, use and direct repairs, changes or additions to the school buildings.

4. **Disposal of property.** The commissioner may sell, transfer or dispose of school property or equipment in the unorganized territory. The proceeds of the sale, transfer or disposal shall be used as provided in section 4351.

#### § 4302. General laws applicable

The following general laws shall apply.

1. **General laws.** The compulsory school attendance laws, sections 1301, 1303 to 1305, 3301 and 3501, and child labor laws shall apply to children in the unorganized territory.

2. **Application rules.** The commissioner may adopt or amend rules concerning officials, appropriate courts, disposal of fines and similar matters that are necessary to apply to the unorganized territory the laws referred to in subsection 1. These rules shall be subject to approval by a Justice of the Supreme Judicial Court, who may approve them if they conform to the general principles of the law being applied.

3. **Printing.** The commissioner shall print these laws and rules in sufficient quantity for use in the unorganized territory and for persons requesting them.

#### § 4303. Census

Before and annually, as long as school privileges are provided in an unorganized unit under this chapter, the commissioner shall determine the number of persons resident in the unit on April 1st and the names and ages of those between 5 and 20 years of age who have not completed the 12th grade.

#### § 4304. Tuition students in unorganized units

A school board may, when it seems advantageous and in the best interest of the children concerned, arrange for children who are entitled to school privileges in its school administrative unit, to attend schools maintained by the State in the unorganized territory, subject to the terms and conditions the commissioner may determine.

1. **Charges.** The commissioner may make allowances or adjustments for transportation or other services furnished by a sending unit for students sent as tuition students to a school in an unorganized unit. Per pupil tuition charges shall

be computed as follows. The total cost of schooling for the preceding fiscal year, excluding employer retirement contributions made by the State and transportation costs for the unorganized unit in which the school is located, plus the total amount of assessment for capital expenditures made for the preceding fiscal year, shall be divided by the average daily attendance of students in the unorganized unit during the preceding school year. A municipality which has contributed to the cost of the school building in compliance with a special legislative Act shall not pay the part of a tuition charge related to capital expenditures.

2. **Income credited.** The portion of tuition income based on capital expenditure shall be credited to the Unorganized Territory Capital Working Fund for the fiscal year in which it is earned and shall reduce the indebtedness charged against the unorganized unit in which it was earned. The balance of tuition income shall be credited to the General Fund for the year in which it is earned and shall be a credit in computing the school assessment on the property of the unorganized unit in which it was earned.

3. **Payments.** The school board shall pay, prior to June 30th of the school year for which a schooling agreement is made any sums agreed on and shall charge these sums to the appropriations of money raised in that school administrative unit.

#### § 4305. Taking of land

The following provisions apply to taking land for school purposes in the unorganized territory.

1. **Taking.** The commissioner may designate, lay out and take a schoolhouse lot not to exceed 3 acres, after 30 days written notice to the owner, if:

- A. The owner refuses to sell;
- B. The commissioner determines the price is unreasonable; or
- C. The owner resides outside the State and has no authorized agent or attorney in the State.

2. **Appraisal and payment.** Prior to a taking, the commissioner shall appraise the damages and pay or tender the damages to the owner. If the owner does not reside in the State, the commissioner shall deposit the damages with the Treasurer of State for the owner's use.

3. **Reversion to owner.** If the State does not erect a school building on the lot within 3 years from the date of taking, the lot shall revert to the owner, his heirs or assigns.

4. **Enlargement or extension of lot.** The commissioner may extend or enlarge a schoolhouse lot according to the procedure and conditions in section 10305 subsection 10. Land taken may not be within 50 feet of a dwellinghouse.



5. **Fencing.** When a schoolhouse lot or playground requires fencing, the commissioner shall fence it.

6. **Appeals.** If the owner is aggrieved at the location of the lot or the damages awarded, he may apply to the State Tax Assessor within 3 months. The State Tax Assessor may change the location and assess the damages. If the damages are increased or the location changed, the State shall pay the damages and costs, otherwise the costs shall be paid by the applicant.

## SUBCHAPTER IV

### FINANCING

#### § 4351. Unorganized Territory School Fund

The commission may expend amounts necessary to carry out subchapters II and III from the Unorganized Territory School Fund and for a purpose necessary for the schooling of children in the unorganized territory including:

1. **Salaries.** Salaries, board and traveling expenses of teachers and supervisors;
2. **Training.** Conferences, training programs and professional improvement of teachers;
3. **Fuel.** Fuel and janitor service;
4. **Tuition.** Tuition, board and transportation of elementary and secondary school pupils;
5. **Texts and supplies.** Text and reference books, school apparatus and supplies; leases or rentals of lots or school buildings;
6. **Repairs.** Minor repairs to school buildings or equipment;
7. **Officials.** Services, expenses and fees of agents, attendance officers and clerical assistants;
8. **Expenses.** Office expenses and utility service; and
9. **Medical.** School medical and dental services.

#### § 4352. Unorganized Territory Capital Working Fund

The Unorganized Territory Capital Working Fund shall be a continuing fund to be used as provided in this section. Any unexpended balances shall not lapse, but shall remain a continuing carrying account.

1. **Use.** The commissioner may use the fund for:
  - A. The erection, equipping, major repair, remodeling or alteration of schoolhouses and other requisite buildings.
  - B. The purchase of lots or buildings for school purposes or faculty housing;

C. The purchase, equipment and major repair of school buses; and

D. For any other necessary capital expenses for providing schools in the unorganized territory.

2. Transfer of property or equipment. When property or equipment is purchased under sections 4352 and 4355 to 4358, a depreciation control of the asset shall be kept. When it is transferred from one unorganized unit to another, a credit for remaining use value, as determined by the commissioner, shall be given to the unorganized unit from which the property is transferred and a corresponding amount shall be charged in accordance with section 4355 to the unorganized unit receiving the property.

3. Gifts and bequests. The Treasurer of State may accept gifts, bequests and other funds from public or private agencies, subject to any conditions approved by the commissioner, to be credited to the fund. A gift, bequest or grant made for a particular designated project shall be used to reduce the total amount of capital outlay involved in the project designated and due to be returned to the fund as provided in section 4354.

4. Short-term investments. The Treasurer of State may, with the approval of the commissioner, make short-term investments of accumulated assets in the fund. The income and capital shall be returned to the fund. The income may be expended by the commissioner for the purposes described in subsection 1.

#### § 4353. School tax rate

1. Assessment. Annually, on April 1st, the cost of providing schools in an unorganized unit shall be assessed on the property of the unorganized unit by the State Tax Assessor in accordance with Title 36, section 1142.

A. The cost of providing schools shall equal:

(1) The total cost of providing schools in that unorganized unit under sections 4251 to 4253 with deductions for:

(a) The amount of interest for the school year on land of the unorganized unit reserved, prorated for the allocation provided by Title 30, section 4165; and

(b) Other sums credited to the Unorganized Territory School Fund on behalf of that unorganized unit; and

(2) An additional charge for administration costs of 8% of the total cost under subparagraph (1) before (after) the deductions.

B. The assessment may not exceed a school tax rate of 10 mills on the dollar above the average of school tax rates of all municipalities of the State for the preceding school year.

C. The commissioner shall furnish on or before February 10th of each year to the State Tax Assessor a statement of expenditures for school purposes in each

unorganized unit during the preceding school year and deductions for the amount of interest on lands reserved and other credits for each unorganized unit, for use in making the tax assessment and as a permanent record.

D. The commissioner shall also furnish a copy of the statement to the Commissioner of Finance and Administration, who shall credit the amount of the tax assessment to the Unorganized Territory School Fund for the fiscal year following the date of the statement.

2. **Payment and collection.** The State Tax Assessor shall include the amounts of the school tax assessment, as made in accordance with Title 36, section 1142, in the statements referred to in Title 36, section 1145. Daily, he shall collect the taxes and deposit the receipts with the Treasurer of State. Payment and collection of the school taxes shall be in accordance with Title 36, sections 1281 to 1283.

3. **Additional amounts.** Additional amounts recommended by the commissioner as necessary to carry out sections 4251 to 4253, 4301 to 4303 and 4351 shall be paid out of sums appropriated by the Legislature and credited to the Unorganized Territory School Fund.

4. **Balances.** An unencumbered balance in the Unorganized Territory School Fund shall not lapse but shall be carried forward to the same fund for use in the next fiscal year.

#### § 4354. Assessments repealed

In lieu of the assessments provided in section 4353 the amounts shall be appropriated from the General Fund to be credited annually to the Unorganized Territory School Fund provided in section 4351.

#### § 4355. Assessment for capital outlay

1. **Expenditures.** Expenditures for capital outlay purposes made during a school year ending June 30th in an unorganized unit, shall be assessed on the property of the unorganized unit by the State Tax Assessor and added to the state tax for the year in which it is assessed.

A. The assessment shall not exceed 2% of the state valuation of the unorganized unit. If the assessment fails to equal the amount expended, the balance remaining shall be assessed each succeeding year on the property of the unorganized unit in amounts that shall not exceed 2% of the valuation of the unorganized unit, until the whole expenditure has been returned to the fund.

B. The commissioner shall file on or before March 15th of each year with the State Tax Assessor a statement of expenditures made during the preceding fiscal year under section 4352 and of any balances due in accordance with this section for use in making the tax assessment and as a permanent record.

C. The commissioner shall also furnish a copy of the statement to the Commissioner of Finance and Administration who shall credit the Unorganized Territory Capital Working Fund with the amount of the tax assessment.

**D. Nothing in this section shall prevent the commissioner from making capital expenditures of income from short-term investments as provided in section 4352 for the use of 3 or more units in the unorganized territory without assessing the expenditures on the property of any unit.**

**2. Additional. The assessment or assessments provided under this section shall be in addition to any other assessment made on the property in an unorganized unit for school purposes.**

**§ 4356. Assessment basis; validity**

**All assessments made under this section, section 4355 and sections 4357 to 4359 shall be based on the valuation of each unorganized unit as determined for the year in which the assessment is made by the State Tax Assessor, and set forth in the statement filed by him as provided in Title 36, section 381. Any assessments made shall be valid, and all remedies provided for the collection of state taxes shall apply.**

**§ 4357. Assessment and collection**

**The State Tax Assessor shall, not later than April 1st, make an assessment of the total amount certified and shall determine the amount of tax due in accordance with Title 36, section 1142. He shall include that amount in the statement referred to in Title 36, section 1145. Daily, the State Tax Assessor shall collect the taxes and deposit the receipts with the Treasurer of State. Payment and collection of the taxes shall be in accordance with Title 36, sections 1281 to 1283.**

**§ 4358. Expenditures for 2 or more units**

**When 2 or more unorganized units share the advantages of a capital expenditure made under this subchapter the commissioner shall determine as equitably as possible the amount of the expenditures to be assessed on the property of each unit as provided in section 4355.**

**§ 4359. Assessment after organization of units**

**Whenever an unorganized unit, in which capital expenditures have been made under this subchapter becomes organized as a municipality or plantation, the State Tax Assessor shall add annually to the state tax of that town or plantation the amount the town or plantation would have paid in accordance with section 4355 had it not become organized.**

**§ 4360. Assessments repealed**

**In lieu of the assessments provided in sections 4355, 4358 and 4359, the amounts are appropriated from the General Fund to be credited annually to the Unorganized Territory Capital Working Fund provided in section 4352.**

**SUBCHAPTER V**  
**ORGANIZATION AND DEORGANIZATION**

**§ 4401. Organization of unorganized unit**

If an unorganized unit becomes organized as a municipality or plantation, it shall, within 5 years of the date of organization, pay to the Treasurer of State for each school building within its limits erected or remodeled prior to August 20, 1951, a sum to be determined by the commissioner from records kept by the commissioner of the cost of these buildings, lots and improvements. The sum shall be credited to the General Fund. A municipality or plantation dissatisfied with the sum determined by the commissioner may, after a vote taken by the municipality or plantation at a regular or special meeting called for the purpose, appeal to the Governor. The Governor's decision shall be final.

**§ 4402. Deorganization of an organized unit**

If a municipality or plantation becomes deorganized by the Legislature, all school property in that municipality shall become the property of the State and under the charge of the commissioner, as other school property in the unorganized territory.

**§ 4403. Failure of civil organization**

1. Failure of organization. If the civil organization of a municipality or plantation becomes defunct, through failure to hold the annual meeting, failure to fill vacancies in necessary offices or in any other manner, and until the municipality or plantation recovers its civil organization or it is deorganized by the Legislature, the commissioner shall:

- A. Assume charge of all school property within its area;
- B. Require an accounting of all municipal or plantation school funds; and
- C. Provide schools for children between 5 and 20 years of age whose parents are residents of the municipality or plantation.

2. School privileges. The commissioner may provide school privileges under the supervision of an agent of the unorganized territory or a special agent appointed for this purpose.

3. Expenses. The expense of these school privileges shall be paid from the appropriation for schools in the unorganized territory.

4. Recovery of expenses. If a municipality or plantation recovers its civil organization within 2 years, the expenses paid under subsection 3, on the recommendation of the commissioner, shall be deducted by the Treasurer of State from school funds that may subsequently become payable to the municipality. The Treasurer of State shall credit these deductions to the appropriation for schools in the unorganized territory.

**PART 4**  
**SPECIFIC EDUCATION PROGRAMS**  
**SUBPART 1**  
**SPECIAL EDUCATION**  
**CHAPTER 301**  
**GENERAL PROVISIONS**

**§ 5001. Definitions**

As used in this subpart, unless the context otherwise indicates, the following terms have the following meanings.

1. Agency. "Agency" means an agency, school, organization, facility or institution.
2. Child. "Child" means a person who has:
  - A. Reached 5 years of age before October 16th; and
  - B. Not reached 20 years of age at the end of the school year.
3. Exceptional. "Exceptional" means being unable to reach educational potential within the usual public school curriculum.
4. Gifted. "Gifted" means being exceptional because of naturally superior abilities, aptitudes or talents.
5. Gifted education programs. "Gifted education programs" means differentiated educational or institutional programs beyond the usual public school curriculum to meet the potential of gifted students. It includes programs to identify gifted students.
6. Handicapped. "Handicapped" means being exceptional because of impairment in:
  - A. Vision;
  - B. Hearing;
  - C. Speech and language;
  - D. Cerebral or perceptual functions;
  - E. Physical mobility functions;
  - F. Behavior; or
  - G. Mental development or maturation.
7. Least restrictive environment. "Least restrictive environment" means the educational setting needed to provide special education programs which most closely resembles the usual public school environment.

8. **Mentally retarded.** “Mentally retarded” means handicapped in mental development or maturation.

9. **Preschool child.** “Preschool child” means a person who has reached 3 years of age and not reached 5 years of age before October 16th.

10. **Pupil evaluation team.** “Pupil evaluation team” means a team to evaluate the progress of a handicapped child in his special education program and school activities.

11. **Related services.** “Related services” means those services necessary to properly provide special education programs. It includes screening, diagnosis, evaluation, transportation or other supportive services.

12. **Special education facility.** “Special education facility” means a portion of a public or private school intended for special education programs or related services.

13. **Special education programs.** “Special education programs” means specially designed educational or instructional programs to meet the unique needs of the handicapped. It includes programs in a classroom, institution, hospital or other location.

14. **State institution.** “State institution” means a state-operated institution for the mentally retarded or mentally ill.

15. **State licensed agency.** “State licensed agency” means an agency licensed by the state to provide education, emotional or mental health services, alcohol or drug rehabilitation, boarding care or other child care services to a child. It includes:

- A. Facilities under Title 22, chapter 1661;
- B. Community mental health centers under Title 34, chapter 183;
- C. Alcohol treatment facilities under Title 22, chapter 1601; and
- D. Residential drug abuse treatment facilities under Title 22, chapter 1601.

16. **Student.** “Student” means a person eligible to be enrolled in a public school.

17. **Surrogate parent.** “Surrogate parent” means a person appointed to take the place of an absent parent in order to protect a child’s interests.

#### § 5002. Cooperation with federal programs

The department shall be the agency for cooperation with the Federal Government in a program for the education of handicapped children.

**CHAPTER 303**  
**HANDICAPPED CHILDREN**  
**SUBCHAPTER I**  
**GENERAL PROVISIONS**

**§ 5051. Policy and purpose**

It is the policy of the State that:

1. **Equal educational opportunities.** All children shall be provided with equal educational opportunities and all school administrative units shall provide equal educational opportunities for all handicapped children;

2. **Least restrictive educational alternative.** A handicapped child shall be educated with children in regular programs to the maximum extent possible.

A. **Educational opportunities for a handicapped child shall be provided by means of the addition of appropriate supportive assistance to regular educational programs.**

B. **Removal of a handicapped child from the regular educational environment may occur only if the nature or severity of the handicap prevents:**

(1) **Education in regular classes with the use of supplemental aids and services; or**

(2) **Education in self-contained classes within the regular school programs.**

C. **A handicapped child may be placed in a residential school or institution, or in a private day school or program only after justification for the placement has been submitted to and approved by the commissioner; and**

3. **Deaf exceptional children.** A handicapped child, diagnosed as deaf, shall be educated with regular students whenever possible and shall be educated under the principle of the least restrictive environment as set forth in state and federal laws and rules.

**§ 5052. Duties of local school administrative units**

Each school administrative unit shall:

1. **Identification.** Identify each child within its jurisdiction who requires special education programs and related services;

2. **Records.** Keep current records of identified handicapped children and institute procedures which guarantee the confidentiality of these records in accordance with state and federal law;

3. **Diagnosis and evaluation.** Use the methods of educational diagnosis and evaluation necessary to plan and implement a special education program for each handicapped child within its jurisdiction;



4. **Plan.** Submit a plan for its special education program to the commissioner for his approval;

5. **Special education.** Provide a special education program for each handicapped child within its jurisdiction;

6. **Compliance.** Provide the commissioner with the information he may require to determine compliance with this chapter;

7. **Pupil evaluation team.** Create a pupil evaluation team for each handicapped child, notify the child's parent of his right to be a member of the team and place a copy of the notice in the child's permanent records; and

8. **Facility construction, renovation and repair.** Seek approval in advance from the commissioner for construction, renovation or repair, with public funds, of facilities intended for the education of handicapped children; or give assurances that other facilities in the school administrative unit are adequate to meet the needs of those children.

#### § 5053. Medical examination or treatment

This chapter may not authorize or require examinations or medical treatment of a child whose parent objects to it on the grounds that he relies solely upon nonmedical remedial care and treatment in accordance with a recognized religious method of healing.

#### § 5054. Duties of the commissioner

##### 1. Duties. The commissioner:

A. Shall make and annually review a state plan for education of all handicapped children in the State. The plan shall be available to the public on request;

B. May approve special education programs for a period he determines appropriate. He may approve plans for special education facilities. This approval shall include:

- (1) Requirements for admission;
- (2) Qualification or certification of staff;
- (3) Plan of instruction;
- (4) Adequacy of facilities;
- (5) Adequacy of related services;
- (6) Professional supervision; and
- (7) Teacher-student ratio; and

##### C. Shall:

- (1) Adopt or amend rules to assure and protect the rights of and due process for handicapped children; and

(2) Inform and train each school administrative unit on handicapped children's rights or due process under state and federal law and rules.

2. Review and assistance. The following provisions apply to review and assistance.

A. It is the intent of the Legislature that a representative of the commissioner visit each special education program each year for the purpose of review and assistance.

B. The commissioner, on the request of a school administrative unit, may provide technical assistance in the formulation of a plan or subsequent report required of that unit. Assistance shall not be designed to transfer the responsibility for or actual development of the plan or report.

C. The commissioner shall provide, or cause to be provided by school administrative units, related services required by handicapped children so they may benefit from equal educational opportunities.

§ 5055. Investigation of noncompliance

The following provisions apply to an investigation of noncompliance with this chapter.

1. Complaint. An interested party may file with the commissioner a written complaint alleging that a school administrative unit is not in compliance with this chapter.

2. Investigation. The commissioner shall initiate, and complete within 30 days, an investigation:

A. On receipt of a complaint; or

B. If he has reason to believe that a unit is not in compliance with this chapter.

3. Post-investigation procedure. Within 10 days after the commissioner has completed his investigation, he shall determine whether probable cause exists to believe that the unit is not in compliance with this chapter. If the commissioner determines that probable cause exists, he shall first attempt informally to achieve a conciliation among all the interested parties. He shall write a report of these efforts and notify all interested parties that the report has been written.

§ 5056. Hearing procedures

The following provisions shall apply to hearings.

1. Commissioner's guidelines. The commissioner shall adopt or amend rules to determine:

A. When a surrogate parent is needed and the criteria for his selection; and

B. The maximum period within which a parent or surrogate parent may exercise the rights listed in subsection 2.

2. **Request for a local hearing and appeal.** A parent or surrogate parent may:
  - A. **Request a local hearing concerning a school administrative unit's performance of the duties listed in section 5052 with respect to his child;**
  - B. **Appeal the decision reached at the local hearing to the state board; and**
  - C. **Appeal the decision of the state board to a state court of competent jurisdiction or to the United States District Court.**
3. **Hearing official.** The State shall train impartial officials to hear appeals presented to the state board.

**§ 5057. Savings provision**

Nothing contained in this chapter shall be construed to prevent or impair the administration or enforcement of any other law of the State.

**SUBCHAPTER II  
PROGRAMS**

**§ 5101. Local programs**

A school administrative unit may establish an appropriate special education program.

**§ 5102. Contractual programs; approval**

A school administrative unit may arrange with or tuition to another school administrative unit or a public or private agency for the education of handicapped children. The program shall be described in a contract which shall be subject to approval in advance by the commissioner.

**§ 5103. Regional programs; approval**

A school administrative unit may enter into cooperative agreement with 2 or more other school administrative units to provide regional special education programs or related services.

1. **Compliance.** A program or service established through this agreement shall be subject to approval by the commissioner.
2. **Special provisions.** A program shall specify that:
  - A. **One of the school administrative units shall serve as fiscal agent;**
  - B. **No requirement exists for separate budget approval and taxation; and**
  - C. **School construction may not be proposed for special education purposes.**
3. **Plan.** A plan for a regional program shall be subject to approval by the commissioner prior to its implementation. The plan shall specify:
  - A. **The objectives and functions to be performed by the regional program;**

- B. The method of fiscal operation and cost sharing;**
- C. The method of entering into and withdrawing from the agreement;**
- D. The method of administering the regional program;**
- E. If the commissioner has not achieved a conciliation within 45 days after the determination of probable cause, he shall notify all interested parties of the time and place of a local hearing to be held to determine whether the school administrative unit is in violation of this chapter;**
- F. The commissioner shall conduct a public hearing in accordance with section 5054, subsection 1. If a parent or surrogate parent requests the hearing to be closed to the public, the commissioner may close it; and**
- G. The commissioner shall notify all interested parties of his written findings of fact and conclusions of law within 10 days of the hearing's conclusion.**

**4. Remedies. If the commissioner finds that the school administrative unit is in violation of this chapter, then he shall specify in writing the steps necessary to achieve compliance. He shall order the school administrative unit to take these steps by a certain date.**

**A. An interested party may appeal the commissioner's order to the Superior Court under the Maine Rules of Civil Procedures, Rule 80B.**

**B. If the unit fails to comply with the commissioner's order, the commissioner:**

**(1) May withhold financial aid from the school administrative unit until it complies with his order; and**

**(2) Shall refer the matter to the Attorney General, who shall take appropriate action to bring the school administrative unit into compliance.**

**C. The remedies provided in this section are in addition to any other remedy in law or equity.**

**D. The method of involving parent and community participation.**

**E. The school administrative unit shall act as fiscal agent for the regional program.**

**5. Funding. The regional program shall be supported by funds included in the special education appropriations of each of the member school administrative units.**

**§ 5104. Contractual programs for nonresident children**

**Another state, subdivision or private person, firm or agency may contract with a private school in this State to provide special education for children who are not residents of this State.**

A program for these nonresident children shall be subject to approval by the commissioner only with respect to the requirements of section 5101.

**§ 5105. Other programs**

In addition to, or in place of, those methods listed in this chapter, a school administrative unit may make other provisions, subject to approval in advance by the commissioner, to insure the education of all handicapped children.

**§ 5106. State licensed agencies**

A special education facility may be operated in conjunction with or as a part of another state licensed agency.

**SUBCHAPTER III**

**FINANCES**

**§ 5151. State aid**

1. **State aid.** The State shall provide financial aid to school administrative units for special education programs.

2. **Contributions.** The commissioner may receive contributions and donations to be used with appropriations to carry out this chapter.

**§ 5152. Tuition rates**

Tuition rates for school administrative units, private special education programs, private general purpose facilities and nonresident children shall be as follows.

1. **School administrative units.** A school administrative unit operating a full-time special education program and accepting students on a tuition basis shall compute a tuition rate. The tuition rate shall not exceed the actual per pupil cost incurred in operation of the special education program. The commissioner shall adopt or amend rules to define allowable expenditures used to determine the per pupil cost.

2. **Private special education facilities.** Private agencies that operate facilities which exclusively serve handicapped children, and that receive state aid for special education programs shall comply with the following in computing tuition rates.

A. All tuition rates shall be subject to approval by the commissioner.

B. The tuition rates shall not exceed the actual per pupil cost incurred in the operation during the preceding school year.

C. The commissioner shall adopt or amend rules to define allowable expenditures used to determine per pupil costs.

D. An agency shall file an annual financial report detailing the allowable expenditures and the computation of the tuition rate by July 15th in the form the commissioner may require.

**E. Increases in the tuition rate from one year to the next may not exceed 15% unless the commissioner determines that a hardship will exist if a higher rate of increase is not approved.**

**F. The commissioner shall adopt or amend rules to establish a tuition rate for new special education programs in special purpose private schools based on the estimated allowable costs of these schools.**

**3. Private general purpose facilities. General purpose private agencies that receive state aid for special education programs shall comply with the following tuition rates.**

**A. The tuition rate charged shall not exceed the state elementary or secondary per pupil tuition rates as computed under sections 3105 and 4053.**

**B. Private schools that have an exclusive contract with a school administrative unit for the provision of secondary education are exempted from the provision of paragraph A and shall be treated as public schools for the computation of special education tuition rates.**

**4. Tuition for nonresident children. This section shall not apply to and the commissioner shall have no authority over tuition rates charged for special education programs by private agencies where the tuition is not paid, reimbursed or otherwise funded in whole or in part by this State.**

## **CHAPTER 305**

### **HANDICAPPED PRESCHOOL CHILDREN**

#### **§ 5201. Purpose**

**The purpose of this chapter is to maintain coordinated delivery systems for handicapped preschool children based on pilot projects.**

#### **§ 5202. Authorization for expenditure of funds**

**The commissioner may, from funds authorized to the department, make grants to agencies and school administrative units to establish local coordinated delivery systems to serve handicapped preschool children.**

**1. Grants. Grants shall be made on a competitive basis, according to rules adopted or amended by the commissioner.**

**2. Rules. The rules shall assure participation at the local level by agencies currently serving handicapped preschool children. They shall require that existing resources for providing services to handicapped preschool children be exhausted prior to using grant funds to provide services.**

#### **§ 5203. Interdepartmental coordination**

**An interdepartmental coordinating committee, representing the department, the Department of Human Services, the Department of Mental Health and Corrections and the public, shall be appointed by the 3 commissioners to work**

with the department to establish rules, including continuation applications, to monitor grants and to evaluate the performance of programs developed through the grants.

**§ 5204. Early childhood consultant**

The position of early childhood consultant to the Division of Special Education shall be established to direct the department's participation in the coordinated delivery system for handicapped preschool children.

**§ 5205. Additional program**

In addition to the program of this chapter, the commissioner may authorize expenditures to an agency for speech and language education of hearing and language impaired handicapped preschool children.

**CHAPTER 307**

**PRIVATE AND STATE OPERATED SCHOOLS**

**§ 5301. Private schools**

The commissioner may require that special education programs in an approved private school or agency receiving state funds comply with rules for the conduct of programs within public schools.

**§ 5302. State institutions**

The director of a state institution shall apply to the superintendent of the school administrative unit in which the institution is located, or in any adjoining unit, for children in the institution to attend that unit's schools. These children shall attend under the same conditions as apply to students residing in the school administrative unit and under the rules of the department relating to special education.

**§ 5303. Governor Baxter State School for the Deaf**

1. Authority to establish. The Governor Baxter State School for the Deaf, established by the Private and Special Laws of 1897, chapter 446 and by the Private and Special Laws of 1953, chapter 44, shall be devoted to the education and instruction of deaf children.

2. Location. The school shall be located in Cumberland County.

3. Responsibility for maintaining the school. The State shall have the responsibility and expense of maintaining the school.

4. Governance. The commissioner shall govern the school and:

A. May employ officers, teachers and other employees, subject to the Personnel Law; and

B. May prescribe the system of education and course of study to be pursued in the school.

5. **Annual evaluations.** The Governor Baxter State School for the Deaf shall provide annual evaluations of all children enrolled in the school. These evaluations shall be sent to the superintendents of the school administrative units from which the children are enrolled.

6. **Technical assistance.** A school administrative unit may request technical assistance from the Governor Baxter State School for the Deaf in matters relating to the education of deaf children in accordance with departmental rules.

7. **Superintendent's authority to enroll children.** The superintendent of the school administrative unit in which that child resides, with the consent of the child's parent and in accordance with the limitations in section 5051 may enroll a deaf child in the Governor Baxter State School for the Deaf. The sums necessary for the support of the child while attending the school shall be paid by the department.

## CHAPTER 309

### MENTAL RETARDATION

#### § 5401. Teacher education programs

The following provisions shall apply to teach education programs.

1. **Education of teachers and school personnel.** A school administrative unit may raise and appropriate money for the education of teachers and other school personnel about the educational needs of mentally retarded children.

2. **Matching basis.** The appropriation shall be expended on a matching basis with funds made available by the department for the same purpose.

3. **Programs.** Teachers and other school personnel who are trained may be reimbursed through funds of the department on a matching basis for expenditures for that training if it has been approved in advance by the commissioner.

#### § 5402. Facilities

The following provisions shall apply to facilities.

1. **Construction or acquisition.** The county commissioners may construct or acquire buildings for state subsidized and approved educational programs for mentally retarded children.

2. **Disposal of buildings.** If these county buildings are sold, the proceeds shall be expended on services and programs for mentally retarded children.

3. **Limit on county responsibility.** This section does not authorize counties to operate these programs.

## CHAPTER 311

### GIFTED CHILDREN

#### § 5501. Purpose



The Legislature recognizes that gifted children, who comprise approximately 3% to 5% of Maine’s students, require differentiated education programs and services beyond those normally provided by the regular school program in order to realize their contribution to society.

§ 5502. Grants to school administrative units

The department may, from funds available to it, grant funds to a school administrative unit to undertake gifted education programs. A grant shall be made on the basis of \$2 of state matching funds for each \$1 of funds appropriated by the school administrative unit.

1. Guidelines for the identification of gifted children. The commissioner shall adopt or amend rules for the identification of gifted children and for gifted education programs.

2. Programs for gifted children. A school administrative unit requesting funds to undertake a gifted education program shall develop a proposed program of identification and education.

3. Time limits. The following limits shall apply.

A. On or before February 1st, the school administrative unit shall submit to the department its proposed program.

B. By May 15th, the commissioner shall notify the school administrative unit whether the proposal has been funded for the following fiscal year.

4. Technical assistance. The commissioner may provide technical assistance to a school administrative unit for planning for gifted education programs.

§ 5503. Available funds

Funds made available to the department for gifted education programs from state, federal or other sources shall not lapse at the end of a fiscal year, but shall be carried forward to the next fiscal year for a period of 90 days to be used for the purposes set forth in this chapter.

SUBPART 2

VOCATIONAL EDUCATION

CHAPTER 313

SECONDARY VOCATIONAL EDUCATION

SUBCHAPTER I

GENERAL PROVISIONS

§ 5601. Acceptance and compliance with federal law

The State shall comply with the following Acts of Congress and any amendments or supplements thereto:

1. **The Smith-Hughes Act.** The Smith-Hughes Vocational Education Act of 1917, chapter 114, 39 STAT. 929;
2. **The George-Barden Act.** The following portions of the George-Barden Act:
  - A. **The United States Vocational Education Act of 1946,** chapter 725, 60 STAT. 775, which may be cited at Title I of the George-Barden Act; and
  - B. **Title III of the United States Health Amendments Act of 1956,** chapter 871, 70 STAT. 923, which may be cited as Title II of the George-Barden Act; and
3. **The Vocational Education Act of 1963.** The United States Vocational Education Act of 1963, Public Law 88-210, 77 STAT. 403, as amended by the United States Education Amendment of 1976, Public Law 94-482, 90 STAT. 2169.

#### § 5602. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Vocational center.** “Vocational center” means facilities providing vocational education to secondary students. A center shall be governed by a single school administrative unit. It may serve students from other affiliated school administrative units. It may include satellite center facilities.
2. **Vocational education.** “Vocational education” means education to create or improve job-related skills, which is not part of a secondary school curriculum.
3. **Vocational region.** “Vocational region” means facilities or programs providing vocational education to secondary school students. A region shall be jointly governed by more than one school administrative unit through a cooperative board.
4. **Vocational satellite program.** “Vocational satellite program” means a facility or program providing vocational education to secondary students, which is administered by a school administrative unit affiliated with a vocational center.

#### § 5603. Custodian of funds

Federal moneys for vocational education shall be received under the following provisions.

1. **Treasurer of State.** The Treasurer of State may receive and provide for the proper custody of federal moneys for vocational education. He may disburse those funds under direction of the state board, its executive officer or other legal authority.
2. **Source of federal funds.** Federal moneys for vocational education shall include moneys received by the State from:
  - A. **The Federal Government under the Acts cited in section 5601;**
  - B. **The Federal Government for the vocational rehabilitation of persons disabled in industry or otherwise; and**

**C. The Federal Government for vocational training.****§ 5604. Cooperation**

The state board may:

1. Cooperation with federal board. Cooperate with the United States Department of Education for the administration of the federal Acts cited in section 5601; and

2. Administration of the United States Vocational Education Act of 1963. Administer programs of the United States Vocational Education Act of 1963, Public Law 88-210 77 STAT. 403, as amended by the Education Amendment of 1976, Public Law 94-482, 90 STAT. 2169.

**§ 5605. Eligibility requirements**

The following provisions shall apply to the eligibility of students entering a vocational center or vocational region program.

1. General right. A person entitled to receive free public secondary education, or seeking to attend full-time courses in grade levels 13 and 14, where offered, either free or subject to tuition:

A. May attend a vocational center or vocational region which serves his area; or

B. May attend a vocational center outside his area subject to the approval of the commissioner, if the governing body of the sending and receiving centers or regions agree to make the necessary arrangements for his attendance.

2. Special qualifications. A vocational center or vocational region shall determine, by admission standards which apply to all students, whether an applicant is qualified to profit from the vocational education and whether the school can accommodate him.

3. Requirements. Vocational centers shall:

A. Provide programs for persons:

(1) Who have graduated from a secondary school; or

(2) Who are qualified persons over 16 years of age who have left school prior to graduation;

B. Offer programs to students at grades 11 and 12; and

C. Offer programs to students below grade 11, if approved by the commissioner.

**SUBCHAPTER II****FINANCING****§ 5651. State aid for vocational centers and vocational regions**

State aid for vocational centers and vocational regions shall be in accordance with chapter 605 and Title 20, section 3457. Costs for new or expanded vocational education programs may be financed by a local tax outside of an additional appropriation now authorized in chapter 605.

§ 5652. Department budget estimates

1. Budget estimate. Before each regular session of the Legislature, the state board shall estimate the amounts necessary to carry out the purposes of sections 5651, 5654, 5701 to 5706. It shall include these amounts in its request to the Legislature for appropriations from the General Fund.

2. Budget limitation. This section shall not apply to construction grants made under Title 20, section 3460.

§ 5653. Tuition for students set out of state

If a school administrative unit determines that a student would be better served by attending, on a tuition basis, an out-of-state secondary level vocational school which is closer, the State shall reimburse that school administrative unit the same amount per pupil as would have been incurred by a vocational center or vocational region.

§ 5654. Tuition for out-of-state students

The tuition charge per nonresident student shall be determined as follows.

1. Primary method. The per pupil cost shall be determined by:

A. Adding the amounts paid for:

- (1) Teachers' salaries;
- (2) Fuel;
- (3) Janitorial services;
- (4) Textbooks;
- (5) Reference books;
- (6) School supplies for desk and laboratory use;
- (7) Public utility services;
- (8) Replacement of instructional equipment;
- (9) Fire insurance; and
- (10) Compensation for the director and his assistants.

B. Adjusting the amounts in paragraph A by the allowable percentages set forth in section 4053; and

C. Dividing this sum by the average daily attendance of all regularly enrolled students in the vocational center or vocational region.

2. Alternate method. When the cost of fuel, janitorial services, public utility services or insurance for the vocational education facilities cannot be separated from similar costs for other facilities, these costs shall be prorated on the basis of the square footage of floor space in the vocational education sections in relation to the total floor space to which those expenditures apply.

§ 5655. Tuition for in-state students

Schools receiving tuition students may charge a tuition rate not to exceed  $\frac{2}{3}$  of the tuition rate as computed under section 4053 to students who are enrolled in regular school day vocational education programs at vocational centers, vocational satellite programs or vocational regions.

SUBCHAPTER III

VOCATIONAL CENTERS

§ 5701. Vocational centers

The vocational centers shall operate at Augusta; Bath; Biddeford; SAD No. 61, (Bridgton); Caribou; SAD No. 46, (Dexter); SAD No. 9, (Farmington); Lewiston; Portland; SAD No. 1, (Presque Isle); SAD No. 54, (Skowhegan); Waterville; and Westbrook.

§ 5702. State board approval

1. Plans for vocational centers. A vocational center shall be maintained and operated under a plan approved by the state board. A plan shall include: A survey of the educational needs; the employment opportunities; the programs to be offered; and the locations and the area to be served.

2. Plans for vocational satellite programs. The state board may approve plans for a vocational satellite program if:

- A. A vocational center requests a vocational satellite program;
- B. The school board operating the vocational center approves the plan and supplies information documenting the need for a vocational satellite program; and
- C. The request includes the commissioner's approval.

§ 5703. Programs

A vocational center shall provide programs of education and training in trade, industrial, agricultural, business, distributive and service occupations.

§ 5704. Vocational satellite programs

The following provisions shall apply to vocational satellite programs.

1. Financial responsibility for vocational satellite program. The school board responsible for operating the vocational satellite program shall assume full financial responsibility for paying the operating costs of that program. It shall

receive the state subsidy for the program and tuition income. These programs shall be financed through available funds.

2. **Programs facilities and equipment; school construction aid.** The school board, where the vocational satellite program is operated shall:

A. **Furnish the necessary facilities and equipment; and**

B. **Be eligible for school construction aid if new facilities are required and approved.**

3. **Nomination of operating personnel.** The superintendent operating the vocational satellite program, in consultation with the director of the vocational center, shall nominate personnel to operate the programs. The school board shall appoint personnel.

4. **Supervision.** The school principal and the director of the vocational center shall jointly make recommendations to the local superintendents and shall supervise personnel working in the vocational satellite program.

5. **Center operated vocational satellite programs.** Vocational centers may operate vocational satellite programs in municipalities served by the center when the programs require only part-time instruction and are approved by the commissioner.

#### § 5705. Advisory committees

There shall be an advisory committee responsible for coordinating vocational education in each vocational center.

1. **Membership.** Membership on the advisory committee shall consist of:

A. **The superintendent of the participating secondary schools or his representative; and**

B. **One board member chosen from each participating school board by its membership.**

2. **Meetings.** The advisory committee shall meet quarterly.

3. **Duties.** The committee shall prepare and submit an annual report on the vocational center and vocational satellite programs, to the state board and to each municipality served by the center.

#### § 5706. Local director

A school administrative unit operating a vocational center shall employ on the staff of the center a local director of vocational education.

1. **Qualifications.** The director shall meet the qualifications prescribed by the state board.

2. **Administrative status.** The director shall be responsible to the appropriate administrative officer of the school administrative unit operating the center.

**SUBCHAPTER IV**  
**VOCATIONAL REGIONS**

**§ 5751. Vocational regions**

1. **Legislative intent.** It is the intent of the Legislature that the vocational regions shall deliver vocational education to their respective areas in accordance with this subchapter, and they shall function as extensions of the secondary schools within their region.

2. **Boundaries.** The vocational regions shall have boundaries as follows:

**A. Region 1. NORTHERN AROOSTOOK COUNTY.** Units located in this area shall include: Madawaska; SAD No. 10-Allagash; SAD No. 24-Van Buren, Cyr Plt., Grand Isle and Hamlin Plt.; SAD No. 27-Eagle Lake, Fort Kent, New Canada Plt, St. Francis Plt., St. John Plt., Wallagrass Plt. and Winterville Plt.; SAD No. 33-Frenchville and Saint Agatha.

**B. Region 2. SOUTHERN AROOSTOOK COUNTY.** Units located in this area shall include: Bancroft; Benedicta; Crystal; Dyer Brook; Hersey; Island Falls; Linneus; Ludlow; Merrill; Moro Plt.; New Limerick; Oakfield; Orient; Smyrna; SAD No. 14-Danforth and Weston; SAD No. 25-Mt. Chase Plt., Patten, Sherman and Stacyville; SAD No. 29-Hammond Plt., Houlton, Littleton and Monticello; SAD No. 70-Amity, Cary Plt., Haynesville and Hodgdon.

**C. Region 3. NORTHERN PENOBSCOT COUNTY.** Units located in this area shall include: Carroll Plt.; Codyville; Drew Plt.; East Millinocket; Glenwood Plt.; Lakeville Plt.; Macwahoc Plt.; Medway; Millinocket; Reed Plt., Topsfield; Vanceboro; Woodville; SAD No. 30-Lee, Prentiss Plt., Springfield, Webster Plt. and Winn; SAD No. 31-Burlington, Edinberg, Enfield, Howland, Lowell, Maxfield, Passadumkeag and Seboeis Plt.; SAD No. 67-Chester, Lincoln and Mattawamkeag.

**D. Region 4. SOUTHERN PENOBSCOT COUNTY.** Units located in this area shall include: Alton; Amherst; Aurora; Bangor; Bradley; Brewer; Dedham; Glenburn; Grand Falls Plt.; Great Pond Plt.; Greenbush; Greenfield; Hermon; Milford; Old Town; Orono; Orrington; Osborn Plt.; Veazie; SAD No. 22-Hampden, Newburgh and Winterport; SAD No. 23-Carmel and Levant; SAD No. 38-Dixmont and Etna; SAD No. 63-Clifton, Eddington and Holden; SAD No. 64-Bradford, Corinth, Hudson, Kenduskeag and Stetson.

**E. Region 6. WASHINGTON COUNTY.** Units located in this area shall include: Alexander; Baileyville; Baring Plt.; Beals; Beddington; Calais; Centerville; Charlotte; Cooper; Crawford; Deblois, Dennysville; Eastport; Grand Lake Stream Plt.; Jonesboro; Jonesport; Machias; Marshfield; Meddybemps; Northfield; No. 14 Plt.; No. 21 Plt.; Pembroke; Perry; Princeton; Robinston; Roque Bluffs; Talmadge; Waite; Wesley; Whitneyville; SAD No. 37-Addison, Cherryfield, Columbia, Columbia Falls, Harrington and Milbridge; SAD No. 19-Lubec; SAD No. 77-Cutler, East Machias, Machiasport and Whiting.

**F. Region 7. WALDO COUNTY.** Units located in this area shall include: SAD No. 3-Brooks, Freedom, Jackson, Knox, Liberty, Monroe, Montville, Thorndike, Troy, Unity and Waldo; SAD No. 34-Belfast, Belmont, Morrill, Northport, Searsmont and Swanville; SAD No. 56-Frankfort, Searsport and Stockton Springs.

**G. Region 8. KNOX COUNTY.** Units located in this area shall include: Appleton; Hope; Islesboro; Lincolnville; SAD No. 5-Owls Head, Rockland and South Thomaston; SAD No. 7-North Haven; SAD No. 8-Vinalhaven; SAD No. 28-Camden and Rockport; SAD No. 40-Friendship, Union, Waldoboro, Warren and Washington; SAD No. 50-Cushing, St. George and Thomaston.

**H. Region 9. NORTHERN OXFORD COUNTY.** Units located in this area shall include: Hanover; Peru; Rumford; SAD No. 21-Canton, Carthage and Dixfield; SAD No. 43-Byron, Mexico and Roxbury; SAD No. 44-Andover, Bethel, Greenwood, Newry and Woodstock.

**I. Region 10. EASTERN CUMBERLAND-SAGADAHOC COUNTY.** Units located in this area shall include: Brunswick; Freeport; SAD No. 62-Pownal; SAD No. 75-Bowdoin, Bowdoinham, Harpswell and Topsham. This region and the vocational center at Bath shall coordinate programs and activities.

**J. Region 11. SOUTHERN OXFORD COUNTY.** Units located in this area shall include: SAD No. 17-Harrison, Hebron, Norway, Otisfield, Oxford, Paris, Waterford and West Paris; SAD No. 39-Buckfield, Hartford and Sumner. This region and the vocational center at SAD No. 61 (Bridgton) shall coordinate programs and activities.

**3. Central Aroostook County.** Central Aroostook County shall also be a vocational region. Public secondary schools located at: Ashland; Caribou; Easton; Fort Fairfield; Limestone; Mars Hill; Presque Isle and Washburn shall be served by regional vocational centers located in Presque Isle and Caribou.

**A.** Notwithstanding provisions of sections 5753, 5754 and 5756, these regional centers shall be governed by their respective school boards but shall have an advisory committee responsible for coordinating vocational education for the Central Aroostook County Area.

**B.** Membership on the advisory committee shall consist of the superintendents of the participating municipalities with public secondary schools and one board member chosen from each school board by its membership.

**C.** The advisory committee shall meet quarterly and shall be responsible for preparing and submitting an annual report on vocational education to the state board and to each school administrative unit within the region.

**4. Validation.** Each vocational region authorized and organized under the Public Laws of 1973, chapter 605, is hereby validated, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity which



may have occurred in the organization of the region or in the selection of the cooperative board of that region.

5. **Changing boundaries.** The boundaries of the vocational regions shall not be changed except that a unit contracting for secondary education outside of its region shall become a part of the region with which it contracts.

§ 5752. **Program approval**

The state board shall approve vocational programs in the vocational regions as funding becomes available, and on the basis of plans submitted by the cooperative boards.

§ 5753. **Cooperative boards**

The vocational regions shall be administered by a cooperative board organized as follows:

1. **Creation.** The school boards of the school administrative units, at a joint meeting called by the commissioner, shall determine by majority vote:

- A. The size of the cooperative board;
- B. The number to serve from each unit or group of units;
- C. The method of selecting representatives from each unit;
- D. The method of sharing costs; and
- E. The number of units to be jointly represented by a cooperative board member.

2. **Role of municipal officers.** The municipal officers of each school administrative unit within the region shall be invited to the joint meeting to present testimony on cooperative board membership and the methods of sharing costs among the units.

3. **Voting.** Each school board shall caucus with the municipal officers within that unit. In the joint meeting, the school board shall cast their votes on the issues in accordance with the majority vote of the caucus of their school board and municipal officers.

4. **Process of appeal.** A school board may appeal decisions on the method of sharing cost and the method of apportioning representatives on the cooperative board of the state board. The state board decision shall be final and binding on the school administrative units within the region.

5. **Formation.** Cooperative boards shall be formed as follows.

- A. When the member school administrative units of a cooperative board have determined the representation and the method of sharing costs, the superintendent in the region shall call meetings of the school boards. The school boards shall appoint their members of the cooperative board.

**B. Members of the cooperative board shall consist of residents from each school administrative unit in proportion to the population of that unit to the whole region. Residents who, by holding another office, have duties conflicting with those of the cooperative board may not be selected.**

**C. Cooperative board members shall take an oath or affirmation in the same form as prescribed in section 1451 for directors of school administrative districts. A certificate of the oath or affirmation shall be on file in the office of the cooperative board.**

**6. Organization of the cooperative board. The organization of the cooperative board shall occur as follows.**

**A. The superintendent shall call a meeting of the cooperative board members to organize.**

**B. The board shall:**

**(1) Elect a chairman and vice-chairman;**

**(2) Elect a secretary who does not have to be a member of the board;**

**(3) Adopt a constitution or by-laws for the calling of and conducting of board meetings; and**

**(4) Elect a treasurer. He shall give a bond to the board with the sum and sureties established by the board. This bond shall be deposited with the chairman. The expenses of the bonds shall be paid by the cooperative board. The treasurer does not have to be a member of the cooperative board.**

**7. Return and certificate. The secretary shall immediately file a return with the state board listing the names of the officers of the board and certifying that the board has been properly organized.**

**8. Issuance of certificate. The state board may issue a certificate of organization or reorganization for each vocational region. The issuance of the certificate shall be conclusive evidence of lawful organization. The original certificate shall be kept on file by the secretary of each region, and copies shall be placed on file in the office of the commissioner.**

**9. Vocational region considered a political subdivision. A vocational region shall be a political subdivision within the meaning of Title 5, section 1222, subsection 6 and a quasi-municipal corporation within the meaning of Title 30, section 5053, and all the provisions of that section shall be applicable to them.**

**10. Voter approval. Vocational regions may vote on articles submitted by the cooperative board using the procedures set forth in sections 1551 to 1554.**

#### **§ 5754. Cooperative board authority**

**1. Duties. A cooperative board shall have all the rights and duties of a school board as provided in sections 1051 to 1053, 1104, 1353, 1455 to 1456, 1459, 2105 and 2110, excluding subsections 7 and 8.**

2. **Review of agreement.** The cooperative board, with the superintendent's advisory committee, shall annually review the cooperative agreement. It may amend the agreement with respect to the administration of vocational education in the region. A revision of the agreement shall be subject to approval by majority vote of the school boards of the region as provided for budget approval under section 5757. A copy of the cooperative agreement and amendments shall be filed with the commissioner.

3. **Authority.** A cooperative board may:

A. Borrow funds in anticipation of the member unit's payment of its share of the vocational regional budget. Loans:

(1) Shall be repaid within one year; and

(2) May not at any time exceed 3/4 of the budget approved by the member units of the region;

B. May expend available revenue to meet debt service and security and maintenance of property costs; and

C. Accept and expend special grants from state and federal sources.

3. **Compensation.** Cooperative board members shall be paid up to \$10 for each meeting attended.

#### § 5755. Vocational director

1. **Employment.** The cooperative board shall employ a certified vocational director. The board may appoint the director to serve as the:

A. Administrative officer of the region; and

B. Treasurer and secretary to the board.

2. **Duties.** The administrative officer may nominate teachers and shall perform other duties as assigned by the board.

3. **Ex officio administrative officer.** If the cooperative board does not designate the vocational director to serve as administrative officer, the board may enter into an agreement with a superintendent within the region to serve as ex officio administrative officer for the region.

#### § 5756. Superintendents' advisory committee

The superintendents within each region shall serve as an advisory committee to the cooperative board. This committee shall:

1. **Right to attend cooperative board meetings.** Be invited to attend and receive notice of all meetings held by the cooperative board; and

2. **Meeting with vocational director.** Meet with the vocational director at least 4 times each year to review proposed programs, budgets and issues relating to vocational education.

**§ 5757. Vocational education budget for vocational regions**

The following provisions shall apply to funding and budget of a vocational education region.

1. **Funding of operating and construction costs.** The regions shall appropriate the necessary local funds, according to the agreement for sharing costs, to pay the operating and construction costs for vocational education regional programs as may be required by sections 5752 and 5754.

2. **Public hearings on budget.** Prior to the approval of the vocational education budget, the cooperative board shall hold at least 2 public hearings on the budget within the region.

3. **Submission of budget.** The budget, as approved by the cooperative board, shall be submitted to the legislative body of each school administrative unit within the region in the form of 2 articles in the budget meeting warrant or in the form of 2 orders in a municipal council meeting.

A. The articles or orders should be in substantially the following form:

“Shall the regional vocational budget as approved by the cooperative board for the year \_\_\_\_\_ be approved in the amount of \$ \_\_\_\_\_?”

“Shall the vocational region approve a budget for adult education in the amount of \$ \_\_\_\_\_ for the year \_\_\_\_\_?”

B. A school administrative unit's share of the vocational budget shall be considered part of that unit's local school budget. If necessary, the unit's school budget shall be adjusted to reflect the unit's share of the vocational budget as finally adopted by the region.

C. Initial costs for new vocational education programs may be financed by a local tax outside of any additional appropriations now authorized in section 10211, subsection 3.

D. Anticipated grants from federal sources to be received by the regional cooperative board shall be deducted from the gross budget before making the assessments to the individual municipalities within the region.

4. **Approval of budget.** The budget approval process shall be as follows.

A. The vote of the budget shall be completed at the same time as the regular school budget.

B. The vote of the legislative body shall be to accept or reject each article in the budget warrant. No portion of a warrant may be amended.

C. Following the annual budget meeting of a school administrative unit, the clerk of that unit shall notify, in writing, the member or members of the cooperative board which represent that unit of the results of the vote.

D. Within 5 days after the last unit has acted on the budget, the chairman of the board shall call a meeting of the board to tally the results of the vote.

**E. The cooperative board members shall report in writing and each shall cast his ballot in the affirmative or in the negative in accordance with the majority vote of the school administrative units represented.**

**F. The chairman shall add these votes and the cooperative board shall make a finding of fact and enter in its records the total vote in the affirmative and in the negative.**

**(1) If the total affirmative votes exceed the total negative votes, the cooperative board shall declare that the budget has been approved.**

**(2) If any article within the budget fails to pass, or if a special budget meeting is called after the board has declared an emergency exists, the board may prepare a new budget or special budget and submit the necessary articles to a budget meeting of the vocational region in the manner set forth in section 5758.**

**5. School administrative districts and community school districts. A municipality which is a member of a secondary community school district or a school administrative district shall appropriate the costs of vocational education as part of the secondary school budget.**

**§ 5758. Regional budget meeting**

**1. Method of notice. A regional budget meeting shall be called by a warrant. The warrant shall be signed by a majority of the cooperative board membership. The following procedures shall apply.**

**A. The warrant shall specify the time and place of the meeting.**

**B. The warrant shall be directed to any resident living within the vocational region by name ordering him to notify all voters within the region to assemble at the time and place appointed.**

**C. The warrant shall include the articles the cooperative board considers necessary to place before the voters and the authorization to expend funds of the region for the fiscal year.**

**D. An attested copy of the warrant shall be posted by the person to whom it is directed in some conspicuous public place in each of the municipalities within the vocational region at least 7 days before the meeting.**

**E. The person who gives notice of the meeting shall make his return on the warrant stating the manner of notice in each municipality and the time when it was given.**

**F. A detailed supportive budget document shall be available to the legislative body which has responsibility for final budget approval. The supportive document shall contain a summary of anticipated revenues and estimated expenditures for the fiscal year.**

**2. Procedure. The procedure at a regional budget meeting shall be as follows.**

- A. The cooperative board shall appoint a resident of the region to act as the registration clerk.
- B. The registration clerk shall make and keep a voting list of all residents in the region eligible to vote. The clerk shall compile the voting list from the voting lists of all the municipalities with the region.
- C. Each municipal clerk within the region shall deliver to the registration clerk, 5 business days prior to the budget meeting, a certified corrected copy of the voting list of the member municipality. Additions or deletions may not be made during the 5 business days prior to the meeting. Only the citizens whose names appear on the voting list may vote on the budget presented by the cooperative board.
- D. The chairman of the cooperative board, or in his absence his designee, shall open the budget meeting by calling for the election of a moderator, by receiving and counting the votes and by swearing in the nominee receiving a plurality of the votes.
- E. The moderator shall preside over the meeting.
- F. The vocational budget may be adopted only by a majority vote of those present and voting.
- G. The moderator shall appoint from the certified voting lists as many ballot clerks as necessary for the efficient operation of the meeting. The ballot clerks shall be sworn by the moderator.
- H. The secretary of the cooperative board, or in his absence his designee, shall record accurately all the votes of the meeting.
- I. The cooperative board shall, immediately upon the adoption of a budget, compute the share to be paid by each municipality within the region and shall notify the school officials to include their share in the school administrative unit's annual school budget. A budget shall be adopted on or before August 1st.
- J. Anticipated grants from federal sources to be received by the regional cooperative board shall be deducted from the gross budget before making the assessments to the individual municipalities within the region.
- K. The school officials shall place on the school warrant for payment the first of each month a sum equal to 1/12 of the school administrative unit's share of the vocational school budget.

§ 5759. Bonding authority

Bonds and notes for capital outlay purposes may be issued under the following provisions.

1. Regional meeting. If the cooperative board decides to issue bonds or notes of the region for capital outlay purposes:

- A. The board shall call a regional meeting using the procedures set forth in sections 1511 and 1551 to 1554;
  - B. The results of the referendum vote in each municipality shall be reported immediately to the secretary of the cooperative board; and
  - C. The board shall meet and make an appropriate finding of fact as required in section 1553, subsection 2.
2. **Bond resolutions.** If the cooperative board determines from the vote that bonds or notes shall be issued, then the following shall apply.
- A. The board shall pass a resolution to that effect setting forth the amount of the proposal and the purposes for which the proceeds were authorized.
  - B. Bonds or notes shall be issued in the manner described in section 1511, except that any reference therein to "School Administrative District" or "board of school directors" shall mean vocational region or cooperative board, respectively.
  - C. Indebtedness shall not exceed 4% of the total state valuation of all the municipalities comprising the region. That indebtedness shall be outside the debt limitations of the individual municipalities of the region.

§ 5760. **Transfer of school property**

The following shall apply to transfer of school property to a vocational region.

- 1. **Authority.** A school board of a school administrative unit within a vocational region may transfer or lease unused school property owned by the unit to the vocational region for vocational education purposes.
- 2. **Definitions.** For the purposes of this section a special school district shall be considered to be a school administrative unit.

**SUBPART III  
OTHER PROGRAMS  
CHAPTER 315  
ADULT EDUCATION**

§ 5801. **Purpose**

Since education is a lifelong process, it is declared to be the policy of the State to provide and encourage the growth of educational opportunities for all adults.

§ 5802. **Commissioner's duties**

The commissioner shall adopt or amend rules to establish program definitions for adult vocational courses, general adult courses, adult handicapped courses, high school completion courses and basic literacy courses.

§ 5803. **Authority to raise money**

A school administrative unit may:

1. **Support adult education.** Raise and appropriate money for the support of adult education classes and educational activities. These classes and activities shall be under the direction and supervision of the school board; and
2. **Tuition.** Raise, appropriate and expend money to cover the tuition costs resulting from its residents attending adult education courses in another school administrative unit, if the courses are not offered by the unit of residence.

**§ 5804. Authority to operate nonpublicly supported programs**

A school board may make available facilities for adults for day and evening educational and recreational activities not reimbursed by the State. These courses and activities may be financed by tuition fees, by funds voted by the school administrative unit, by funds from other sources or by a combination of these.

**§ 5805. Participation in adult education**

1. **General.** A person who is 17 years of age or older and who is not attending public schools may attend local adult education courses in accordance with local program criteria.

A. The commissioner shall grant exceptions under this subsection in admitting students to adult education programs at the local level to a student who has left school under the provisions of section 3301, subsection 2, paragraph B, subparagraphs (1) to (4) on the recommendations of the school board.

B. Prior to requesting an exception, the school board shall seek and consider the recommendations of the positive action committee.

C. Students enrolled in public day school programs may participate in adult education programs or adult vocational programs to supplement the regular day school program on an exception basis in accordance with rules adopted or amended by the commissioner.

2. **School age pupils; pupil count; reimbursement; enrollment in neighboring unit.** School age pupils may enroll in adult evening school courses as follows.

A. A pupil between the 16th and 20th anniversaries of his birth, who enrolls in a semester adult evening school course, shall be counted as .1 of a pupil.

B. The school administrative unit in which a student resides shall be reimbursed in accordance with chapter 605.

C. If a unit does not offer an appropriate adult evening school course, the student may enroll in a neighboring school administrative unit or private school, subject to the approval of the sending unit's superintendent. The sending unit shall pay tuition to the receiving unit in an amount no greater than .1 of the present per pupil subsidy allocation for secondary students in the sending unit.

**§ 5806. Reimbursement procedures**



1. **Commissioner certification.** Prior to February 1st of each year, the commissioner shall certify to the Legislature and to the Bureau of the Budget his recommendation for the funding levels for the various program categories in adult education.

A. The requested funding levels shall be computed by adding the actual costs for the first half of the year immediately prior to the year of allocation of funds to the total estimated costs that will be incurred for the 2nd half of the same year.

B. The commissioner may amend an estimate if he believes that estimate to be unreasonable.

C. If a school administrative unit fails to submit the necessary information required in this section within the time specified by the commissioner, the commissioner shall estimate that unit's education cost.

2. **State reimbursement.** State reimbursement for expenditures on adult education programs shall be based on the total expenditure less income from federal sources.

A. The reimbursement shall be based on the net expenditures, or the report of expenditures for the first 6 months and the estimate of the expenditure for the last 6 months of the fiscal year, as approved by the commissioner, whichever is lower.

B. State aid will be paid to the school administrative units during the 2nd quarter of the state's fiscal year following the unit's expenditure.

C. If the Legislature fails to appropriate sufficient funds for reimbursement, state aid to school administrative units will be prorated.

#### § 5807. Reimbursement rates

Reimbursement rates shall be as follows.

1. **Administrative costs.** School administrative units shall be reimbursed 70% of the administrative cost for evening and day school classes and educational activities for adults in the year following the expenditure. Administrative cost shall include administrative, supervisors and clerical salaries and the costs of maintaining and operating citizens' advisory committees.

2. **Adult vocational-education courses.** Adult vocational-education courses shall be reimbursed at the rate of 75% of the cost of instructional salaries and 50% of consumable supplies.

3. **General adult courses.** Courses provided for the general public in vocational, leisure and life skill programs shall be reimbursed at the rate of 50% of the cost of instructional salaries.

4. **Adult handicapped courses.** Adult handicapped courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

5. **High school completion courses.** High school completion courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

6. **Basic literacy courses.** Basic literacy courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

7. **Definitions.** The commissioner shall adopt or amend rules to define the terms "adult vocational-education courses," "general adult courses," "adult handicapped courses," "high school completion courses," and "basic literacy courses" for the purposes of this section.

#### § 5808. Teacher education reimbursement

The commissioner shall add to his budget request a sum not to exceed 5% of the sum recommended for reimbursement to school administrative units for preservice and inservice education activities for teachers in adult education.

#### § 5809. Fees for adult education

Fees for adult education shall be as follows.

1. **Registration fee.** A school administrative unit, with the approval of the commissioner, shall establish a registration fee schedule and determine the use of those registration fees.

2. **Material fee.** A school administrative unit may charge a student a fee to cover the actual cost of materials used by him in a course he is attending.

#### § 5810. Adult vocational education authority

Adult vocational education programs may be offered under the following provisions.

1. **Basic authority.** A vocational region or vocational center may offer adult vocational education programs within its geographic area.

2. **Request for program approval.** A school administrative unit in a vocational region or a unit served by a vocational center may request that adult vocational education courses be offered in that school administrative unit through the cooperative board of the vocational region or the governing body of the vocational center.

3. **Board approval.** The cooperative board of the vocational region or the governing body of the vocational center may approve adult vocational education courses in that school administrative unit.

4. **Adequate funding.** The offering of adult vocational education courses shall be dependent upon that school administrative unit appropriating sufficient funds to pay for the courses.

5. **Persons entitled to attend.** Adult vocational education courses offered in a school administrative unit shall be open to any adult who needs retraining or upgrading. If space is limited, priority shall be given to the residents of the unit offering the program.

6. **State reimbursement.** State reimbursement shall be made to a school administrative unit in accordance with section 4607. If the request to operate a reimbursable adult vocational education course is disapproved by the cooperative board of the vocational region or by the governing body of the vocational center, the school administrative unit may appeal to the commissioner for authority to offer the course. His decision is final and binding.

#### CHAPTER 317

#### SUMMER SCHOOLS

##### § 5901. Summer schools, standards, approval

Standards for summer schools shall be as follows.

1. **Standards.** The state board shall adopt or amend rules to establish standards consistent with sections 4001, 4002 and 4005 for summer schools offering credit toward graduation from a Maine elementary or secondary school.

2. **Approval.** The state board shall direct an inspection after which he may approve and grant a certificate to a school that maintains those standards. The expense of inspection shall be paid by the department.

#### CHAPTER 319

#### FIREMEN TRAINING

##### § 6001. Program

The commissioner may conduct programs to provide training for members of municipal fire departments, incorporated volunteer fire departments and industrial and institutional fire brigades.

The commissioner may not require participation in these programs by a member of a municipal fire department, incorporated volunteer fire department or industrial or institutional fire brigades nor use participation in training programs as a condition of eligibility to receive funds for training programs.

##### § 6002. Advisory committee

An advisory committee shall be appointed as follows.

1. **Establishment.** The commissioner shall appoint a 13 member advisory committee to advise him in the administration of section 6001 as follows:

A. One municipal chief, one call chief and one volunteer chief recommended by the Maine Fire Chiefs' Association, Inc.;

B. One municipal firefighter, one call firefighter and one volunteer firefighter recommended by the Maine Federation of Firefighters, Inc.;

C. One city or town manager and one selectman recommended by the Maine Municipal Association, Inc.;

- D. One member of an industrial or institutional fire brigade recommended by the Maine Safety Council;**
  - E. One representative from the field of insurance recommended by the Maine Insurance Association, Inc.;**
  - F. Two members recommended by the Maine Council of Firefighters, Inc.;**  
**and**
  - G. One member of the general public.**
- 2. Term of office. Members shall be appointed for a term of 3 years.**
  - 3. Chairman. The members shall elect a chairman.**
  - 4. Expenses. The members shall be reimbursed for their actual expenses, but may not receive other compensation for service on the committee.**
  - 5. Nonvoting representative. The department's consultant for the fire service training program shall be a nonvoting representative of the department at the committee meetings.**

**§ 6003. Federal program agents**

The following provisions shall apply to federal fire programs in the State.

- 1. Commissioner; state agent. The commissioner shall be the state agent to be contacted by the United States Fire Administration, about matters dealing with the United States Fire Prevention and Control Act of 1974, Public Law 93-498.**
- 2. Department; testing; certification. The department shall be the state testing agency for the National Professional Qualification Board of the Joint Council of Fire Services Organizations. The commissioner may award certificates to personnel of municipal and incorporated volunteer fire departments using competency standards established by the Joint Council of Fire Services Organization.**

## **CHAPTER 321**

### **CORRESPONDENCE SCHOOLS**

**§ 6101. Permit; term**

A school or person representing a privately owned correspondence school located within or outside the state may not solicit or sell in the State a corespondence course without a permit from the commissioner. A permit shall be valid for the calendar year for which it is issued.

- 1. Application. The commissioner shall furnish forms for applications and renewal applications.**
- 2. Fee and bond. A fee of \$5 and a bond in the penal sum of \$1,000 shall accompany each application.**

A. The bond shall be used to indemnify a student suffering loss from fraud or misrepresentation used in securing his enrollment.

B. The bond may be continuous.

C. The bond may provide blanket coverage for each of the representatives of a school.

D. The liability of each surety of a bond shall not exceed \$1,000 in the aggregate for each representative for all students for all breaches of conditions of the bond.

E. The surety of a bond may cancel it by providing notice to the commissioner 30 days prior to the date of cancellation. The surety shall not be liable for any breach of condition occurring after the effective date of cancellation.

#### § 6102. Qualifications

A person may be granted a permit under section 6101 only if he has a good moral character.

#### § 6103. Administrative procedures

A permit may be revoked as provided by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter V, if the permittee solicits or enrolls students through fraud or misrepresentation.

#### § 6104. Advisory board

The commissioner may establish a committee of 3 to 5 owners or representatives of privately owned correspondence schools to advise him in the administration and enforcement of this chapter. The advisory committee shall advise the commissioner in adopting or amending rules to administer and enforce this chapter.

#### § 6105. Penalty

Any person convicted of violating this chapter shall be guilty of a Class E crime.

### CHAPTER 323

### TRADE AND TECHNICAL SCHOOLS

#### § 6201. Definition

As used in this chapter, unless the context clearly indicates otherwise, the term "privately owned business, trade, vocational or technical school" means a privately owned school that teaches a business, trade, vocational or technical skill, except:

1. Cosmetology. A school of hairdressing and beauty culture required to be approved by the State Board of Cosmetology;
2. Barbering. A school of barbering required to be approved by the State Board of Barbers;