

MAINE STATE LEGISLATURE

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EDUCATION AND CULTURAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 408, L.D. 570, Bill, "An Act To Improve the Laws Governing the Consolidation of School Administrative Units"

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, there are obstacles preventing certain communities from complying with the state law on school administrative unit reorganization; and

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

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

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

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

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

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

COMMITTEE AMENDMENT

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

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

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

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

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

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

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

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

21 (d) Transportation;

22 (e) Population density; or

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

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

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

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

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

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

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

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

9 (1) A regional school unit to serve fewer than 1,200 students but not less than
10 1,000 students in an isolated rural community, including, for purposes of this
11 paragraph, students attending from the unorganized territory, if the proposed
12 regional school unit meets at least one of the following criteria:

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

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

19 (c) The member municipalities of the proposed regional school unit include
20 2 or more isolated small schools that are eligible for an isolated small school
21 adjustment pursuant to section 15683, subsection 1, paragraph F; and

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

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

34 **Sec. 5. 20-A MRS §1461-B** is enacted to read:

35 **§1461-B. Alternative organizational structure**

36 **1. Notice of intent.** A school administrative unit may file with the commissioner a
37 notice of intent to engage in planning and negotiations with other school administrative
38 units for the purpose of developing a reorganization plan to form an alternative
39 organizational structure in accordance with this section.

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

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

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

11 (1) Consolidation of system administration;

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

15 (3) Adoption of a core curriculum and procedures for standardized testing and
16 assessment aligned with the system of learning results established in section
17 6209;

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

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

21 B. A plan for an alternative organizational structure may include a collaborative
22 agreement under chapter 114 and must include an interlocal agreement under Title
23 30-A, chapter 115. The plan must include procedures for conducting a kindergarten
24 to grade 12 budget approval pursuant to paragraph C.

25 C. The budget procedures of member entities of an alternative organizational
26 structure must conform to the format and referendum procedures set forth in sections
27 1485 and 1486 for regional school units. The budget of the alternative organizational
28 structure must be approved at a meeting of the voters of all of the member entities
29 conducted in accordance with the procedures applicable to a regional school unit
30 budget meeting. The budget of an alternative organizational structure is not subject
31 to a separate budget validation referendum as described in section 1486.

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

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

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

4 A. Notwithstanding the provisions of a reorganization plan under subsection 3 or
5 interlocal agreement under Title 30-A, chapter 115, the governing body of an
6 alternative organizational structure that began operation on or before June 30, 2010
7 may vote to have its member entities recognized as discrete school administrative
8 units for purposes of chapter 606-B. Such a vote must be approved by the governing
9 body of the alternative organizational structure and the commissioner prior to June
10 1st of the year prior to the allocation year.

11 B. If the member entities of an alternative organizational structure that requested in
12 their reorganization plan to be recognized as a single school administrative unit
13 pursuant to subsection 4 vote to be recognized as discrete school administrative units
14 for purposes of chapter 606-B, such a change must be approved by the governing
15 body of the alternative organizational structure and the commissioner prior to June
16 1st of the year prior to the allocation year.

17 6. Withdrawal of a member entity. Notwithstanding chapter 103-A, subchapter 2,
18 for an alternative organizational structure approved by the commissioner and approved by
19 the voters, the withdrawal provisions for member entities that were adopted as part of the
20 reorganization plan under subsection 3 and interlocal agreement under Title 30-A, chapter
21 115 govern the withdrawal of a member entity.

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

27 B. A member entity that does not join a conforming school administrative unit within
28 2 years of withdrawal from an alternative organizational structure is subject to the
29 penalties applicable to a nonconforming school administrative unit under section
30 15696.

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

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

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

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

10/12

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

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

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

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

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

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

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

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

41 **5. Bargaining units of employees of school unions.** For purposes of section 1463,
42 subsection 4 and this subsection, a school union that employed public employees, within
43 the meaning of Title 26, section 962, subsection 6, who were represented by a bargaining

1 agent on the day prior to the operational date of a regional school unit board of directors
2 is considered to be a school administrative unit.

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

4 **§1464-A. Collective bargaining in alternative organizational structures**

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

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

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

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

32 **(1)** In the initial establishment of such units, units must be structured primarily
33 on the basis of the existing pattern of organization, maintaining the grouping of
34 employee classifications into bargaining units that existed prior to the creation of
35 the alternative organizational structure and avoiding conflicts among different
36 bargaining agents to the extent possible.

37 **(2)** In the event of a dispute regarding the classifications to be included within an
38 alternative organizational structure-wide bargaining unit, the current bargaining
39 agent or agents or the alternative organizational structure may petition the Maine
40 Labor Relations Board to determine the appropriate unit in accordance with this
41 section and Title 26, section 966, subsections 1 and 2.

42 **C.** When there is the same bargaining agent in all bargaining units that will be
43 merged into an alternative organizational structure-wide bargaining unit, the units

1 must be separated and merged on the operational date or the date represented
2 employees are transferred to the alternative organizational structure, whichever is
3 applicable, and the alternative organizational structure shall recognize the bargaining
4 agent as the representative of the merged unit.

5 D. When all bargaining units that will be separated and merged into an alternative
6 organizational structure-wide bargaining unit are represented by separate local
7 affiliates of the same state labor organization, the units must be separated and merged
8 on the operational date or the date represented employees are transferred to the
9 alternative organizational structure, whichever is applicable. The identity of a single
10 affiliate that will be designated the bargaining agent for the merged unit must be
11 selected by the existing bargaining agents and the state labor organization. Upon
12 completion of the merger and designation of the bargaining agent and notification by
13 the state labor organization to the alternative organizational structure, the alternative
14 organizational structure shall recognize the designated bargaining agent as the
15 representative of employees in the merged unit. If necessary, the parties shall then
16 execute a written amendment to any collective bargaining agreement then in effect to
17 change the name of the bargaining agent to reflect the merger.

18 E. When there are bargaining units that will be separated and merged into an
19 alternative organizational structure-wide bargaining unit in which there are
20 employees who are not represented by any bargaining agent and other employees
21 who are represented either by the same bargaining agent or separate local affiliates of
22 the same state labor organization, the units must be separated and merged on the
23 operational date or the date represented employees are transferred to the alternative
24 organizational structure, whichever is applicable, as long as a majority of employees
25 who compose the merged unit were represented by the bargaining agent prior to the
26 merger. The procedures for separation and merger of separate local affiliates of the
27 same state labor organization described in paragraph D must be followed if
28 applicable. If prior to the merger a bargaining agent did not represent a majority of
29 employees who compose the merged unit, a bargaining agent election must be
30 conducted by the Maine Labor Relations Board pursuant to paragraph F.

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

35 (1) A petition for an election to determine the bargaining agent must be filed
36 with the Maine Labor Relations Board by any of the current bargaining agents or
37 the alternative organizational structure.

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

43 (3) The election ballot may contain only the names of the bargaining agents of
44 bargaining units that will be merged into the alternative organizational structure-

1 wide bargaining unit and the choice of "no representative," but no other choices.
2 A showing of interest is not required from any such bargaining agent other than
3 its current status as representative.

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

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

18 (6) The bargaining units must be merged into an alternative organizational
19 structure-wide bargaining unit as of the date of certification of the results of the
20 election by the Maine Labor Relations Board or the expiration of the collective
21 bargaining agreements in the unit, whichever occurs later.

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

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

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

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

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

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

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

1 bargaining agreement for the alternative organizational structure-wide bargaining
2 unit.

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

4 **§1466. Withdrawal of a single municipality from a regional school unit**

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

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

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

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

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

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

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

40 Yes No"

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

4 A. The petition adopted by the voters, including the affirmative and negative votes
5 cast; and

6 B. An explanation by the municipal officers, stating to the best of their knowledge
7 the reason or reasons why the municipality seeks to withdraw from the regional
8 school unit.

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

11 A. The commissioner shall direct the municipal officers of the petitioning
12 municipality to select representatives to a withdrawal committee as follows: one
13 member from the municipal officers, one member from the general public and one
14 member from the group filing the petition. The commissioner shall also direct the
15 directors of the regional school unit board representing the petitioning municipality to
16 select one member of the regional school unit board who represents that municipality
17 to serve on the withdrawal committee. The municipal officer and the member of the
18 regional school unit board serve on the withdrawal committee only so long as they
19 hold their respective offices. Vacancies must be filled by the municipal officers and
20 the regional school unit board. The chair of the regional school unit board shall call a
21 meeting of the withdrawal committee within 30 days of the notice of the vote in
22 subsection 3. The chair of the regional school unit board shall open the meeting by
23 presiding over the election of a chair of the withdrawal committee. The
24 responsibility for the preparation of the agreement rests with the withdrawal
25 committee, subject to the approval of the commissioner. The withdrawal committee
26 may draw upon the resources of the department for information not readily available
27 at the local level and employ competent advisors within the fiscal limit authorized by
28 the voters. The agreement must be submitted to the commissioner within 90 days
29 after the withdrawal committee is formed. Extensions of time may be granted by the
30 commissioner upon the request of the withdrawal committee.

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

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

41 (3) The agreement must establish that the withdrawal will not cause a need
42 within 5 years from the effective date of withdrawal for school construction
43 projects that would be eligible for state funds. This limitation does not apply
44 when a need for school construction existed prior to the effective date of the

1 withdrawal or when a need for school construction would have arisen even if the
2 municipality had not withdrawn.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yes No"

1
2 **8. Ballots; posting of agreement.** The withdrawal agreement need not be printed on
3 the ballot. Copies of the agreement must be posted in the municipality in the same
4 manner as specimen ballots are posted under Title 30-A, section 2528.

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

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

9 A. A municipal vote on a petition for withdrawal if the petition received less than
10 45% of the votes cast; or

11 B. A municipal vote on a withdrawal agreement if the agreement received less than
12 60% of the votes cast.

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

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

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

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

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

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

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

38 **15. Execution of agreement; certified record; certificate of withdrawal.** When
39 the agreement for withdrawal has been put into effect by the municipality, the municipal
40 officers shall notify the commissioner by certified mail that the agreement of withdrawal
41 has been executed. A complete certified record of the transaction involved in the

1 withdrawal must be filed with the commissioner. The commissioner shall immediately
2 issue a certificate of withdrawal to be sent by certified mail for filing with the regional
3 school unit board and shall file a copy in the office of the Secretary of State.

4 **16. Indebtedness.** This subsection applies to outstanding indebtedness.

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

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

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

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

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

28 **20. Reorganization; penalties.** A municipality that withdraws from a regional
29 school unit under this section is not subject to penalties applicable to a nonconforming
30 school administrative unit under section 15696 for 2 years after withdrawing from the
31 regional school unit. A municipality that does not join a conforming school
32 administrative unit within 2 years of withdrawal is subject to the penalties applicable to a
33 nonconforming school administrative unit under section 15696. The remaining
34 municipality or municipalities within the regional school unit from which the
35 municipality withdraws are not subject to penalties applicable to a nonconforming school
36 administrative unit under section 15696 for 2 years after the withdrawal of the
37 municipality.

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

39 **§1467. Transfer of a municipality from one regional school unit to another**

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

1 has the authority to overturn decisions made by the commissioner. In exercising this
2 power, the state board is limited by this subchapter.

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

4 **§1472-C. Term of office for elected directors**

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

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

13 **SUMMARY**

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

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

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

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

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

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

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

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

6 4. It establishes provisions for the withdrawal of a member municipality from a
7 regional school unit and the transfer of a member municipality out of one regional school
8 unit and into another. These provisions are similar to the Maine Revised Statutes, Title
9 20-A, former sections 1405 and 1406 pertaining to school administrative districts, except
10 that a member municipality that wishes to withdraw from a regional school unit must
11 have been a member of that regional school unit for at least 3 years and voters in the
12 member municipality must approve withdrawal by a 2/3 majority vote. It also provides
13 that a member municipality that does not join a conforming school administrative unit
14 within 2 years of withdrawal is subject to the penalties applicable to a nonconforming
15 school administrative unit under Title 20-A, section 15696. It further adds a provision to
16 clarify that the regional school unit from which the member municipality withdraws may
17 not be penalized for 2 years after the withdrawal of the municipality. Finally, it includes
18 provisions that formerly applied in this area of law authorizing the State Board of
19 Education to review decisions of the Commissioner of Education.

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

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

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

32 **FISCAL NOTE REQUIRED**

33 **(See attached)**



Approved: 03/17/10 *mac*

124th MAINE LEGISLATURE

LD 570

LR 1059(02)

An Act To Improve the Laws Governing the Consolidation of School Administrative Units

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

No state fiscal impact

Fiscal Detail and Notes

This legislation will not affect the total cost of K-12 public education or the State's share of that cost. This legislation may impact the distribution of subsidy to local school administrative units beginning in fiscal year 2011-12. The impact to individual school administrative units can not be determined at this time.