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An Act To Clarify and Improve the Laws Governing the Formation of Regional School Units

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

Whereas, the provisions of this Act must take effect immediately to allow school administrative units to meet statutory timelines related to school reorganization efforts; and

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

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

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

26. School administrative unit. "School administrative unit" means the state-approved unit of school administration and includes a municipal school unit, school administrative district, community school district, regional school unit or any other municipal or quasi-municipal corporation responsible for operating or constructing public schools, except that it does not include a career and technical education region. Beginning July 1, 2009, "school administrative unit" means the state-approved unit of school administration and includes ~~only~~ a municipal school unit ~~and~~ a regional school unit formed pursuant to chapter 103-A and a school administrative district that does not provide public education for the entire span of kindergarten to grade 12 and a community school district that have not reorganized as a regional school unit pursuant to chapter 103-A.

Sec. 2. 20-A MRSA §1461, sub-§5, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

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

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

Yes No"

~~The following statement must accompany the article:~~

"Explanation:

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

Sec. 3. 20-A MRSA §1464, sub-§4 is enacted to read:

4. Application of collective bargaining agreements. On or after the operational date of a regional school unit established pursuant to section 1463, subsection 1 but before the completion of negotiations for a single regional school unit-wide collective bargaining agreement for the regional school unit-wide bargaining unit as described in subsection 3, the wages, hours and working conditions of an employee of the regional school unit who is in a bargaining unit and who is reassigned to a different position that is or, upon the completion of the merger of bargaining units, will be included in the same regional school unit-wide bargaining unit are determined by the terms of the existing collective bargaining agreement that applies to the position to which the employee is reassigned, except as provided in this subsection.

A. If the application of the existing collective bargaining agreement would cause a reduction in the employee's wage or salary rate, the employee's wage or salary rate must be maintained at the rate the employee was paid immediately prior to the reassignment until the completion of negotiations for a single regional school unit-wide collective bargaining agreement for the regional school unit-wide bargaining unit as described in subsection 3 or the applicable collective bargaining agreement or any interim successor agreement requires a higher wage or salary rate for the employee, whichever occurs sooner.

B. If the application of the existing collective bargaining agreement would cause a reduction in the amount that is paid by the regional school unit for premiums for health insurance for the employee and the employee's dependents, the regional school unit's payment must be maintained at the amount that was paid immediately prior to the reassignment until the completion of negotiations for a single regional school unit-wide collective bargaining agreement for the regional school unit-wide bargaining unit as described in subsection 3 or the applicable collective bargaining agreement or any interim successor agreement requires a higher payment, whichever occurs sooner.

C. If the application of the existing collective bargaining agreement provides for coverage under a different health insurance plan, the employee may elect to retain coverage under the health insurance plan in which the employee was enrolled immediately prior to reassignment if the eligibility provisions of the plan permit until the completion of negotiations for a single regional school unit-wide collective bargaining agreement for the regional school unit-wide bargaining unit as described in subsection 3.

Sec. 4. 20-A MRSA §1479, sub-§3, ¶B, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

B. The regional school unit may negotiate thea new contract pursuant to chapter 115.

Sec. 5. 20-A MRSA §1479, sub-§4, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

4. Absence of contract; maintenance of school choice opportunities. ~~A student who resides in a school administrative unit that does not maintain that student's grade from kindergarten to grade 12, and that does not enter into a contract for the education of its students pursuant to this chapter, has the option of attending a public school in another school administrative unit or private school approved for tuition purposes subject to the provisions of chapter 219 if that option was available from the previous school unit for the area in which that student resides. A school administrative unit that neither maintains a school nor contracts for school privileges pursuant to chapter 115 shall continue to pay tuition, in accordance with chapter 219, for a student who resides in the school administrative unit at the public school or the private school approved for tuition purposes of the parent's choice at which the student is accepted, calculated in accordance with subsection 5.~~

Sec. 6. 20-A MRSA §1479, sub-§5, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

5. Additional expense. ~~If, pursuant to subsection 4, a student attends a public school in another school administrative unit or private school approved for tuition purposes subject to the provisions of chapter 219, and the number of secondary school students from one or more municipalities in a regional school unit that attend a public school in a different school administrative unit or an approved private school is less than all the secondary school students in the regional school unit, the sending municipality of the regional school unit is responsible for the additional expense calculated under this subsection. In a regional school unit where some but not all of the students are attending school pursuant to this section, the sending municipality is responsible for the additional expense as calculated in accordance with this subsection.~~

A. For each secondary school student who attends a public school in another school administrative unit, the sending municipality in a regional school unit is responsible for an amount equal to the ~~number of secondary school students from that regional school unit multiplied by the amount that the receiving regional school unit's tuition rate pursuant to section 5805~~difference in tuition in cases when it exceeds the amount of the sending regional school unit's tuition rate pursuant to~~calculated in accordance with section 5805.~~

B. For each secondary school student who attends a private school approved for tuition purposes subject to the provisions of chapter 219, the sending municipality in a regional school unit is responsible for an amount equal to ~~the number of secondary school students from the regional school unit attending the private school multiplied by the amount that the private school's tuition rate pursuant to section 5806, or the tuition rate per the contract, if less, the difference in tuition in cases when it exceeds the amount of the sending regional school unit's tuition rate pursuant to~~calculated in accordance with section 5805.

~~Any~~Municipalities exercising school choice pursuant to this section are responsible for a local contribution in accordance with section 15688 and the additional expense may not be included in the regional school unit budget when determining each member municipality's local contribution~~calculated in accordance with this subsection.~~

~~Any additional expense must be paid by the responsible municipality in equal monthly amounts unless the regional school unit and the member municipality agree to another payment schedule.~~

Sec. 7. 20-A MRSA §1481-A is enacted to read:

§ 1481-A. Application

For the purposes of this subchapter, the term "regional school unit" means a school administrative unit as defined in section 1, subsection 26.

This section is repealed July 1, 2009.

Sec. 8. 20-A MRSA §1486, sub-§2, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

2. Validation referendum procedures. The budget validation referendum must be held on or before the ~~10th~~14th ~~calendar day, other than Saturday, Sunday or a legal holiday,~~ following the scheduled date of the regional school unit budget meeting. ~~The referendum may not be held on a Saturday, Sunday or legal holiday.~~ The vote at referendum is for the purpose of approving or rejecting the total regional school unit budget approved at the regional school unit budget meeting. The regional school unit board shall provide printed information to be displayed at polling places to assist voters in voting. That information is limited to the total amounts proposed by the regional school unit board for each cost center summary budget category article, the amount approved at the regional school unit budget meeting, a summary of the total authorized expenditures and, if applicable because of action on an article under section 15690, subsection 3, paragraph A, a statement that the amount approved at the regional school unit budget meeting includes locally raised funds ~~over and above the regional school unit's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act~~that exceed the maximum state and local spending target pursuant to section 15671-A, subsection 5.

Sec. 9. 20-A MRSA §1486, sub-§3, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

3. Budget validation referendum voting. The method of calling and voting at a budget validation referendum is as provided in sections 1503 and 1504, except as otherwise provided in this subsection or as is inconsistent with other requirements of this section.

A. A public hearing is not required before the vote.

B. ~~The warrant for a regional school unit budget meeting to be followed by a budget validation referendum may be a consolidated warrant covering both.~~

C. The warrant and absentee ballots must be delivered to the municipal clerk ~~at least 7 days before~~no later than the day after the date of the regional school unit budget meeting.

D. Absentee ballots received by the municipal clerk may not be processed or counted unless received on the day after the conclusion of the regional school unit budget meeting and before the close of the polls.

E. All envelopes containing absentee ballots received before the day after the conclusion of the regional school unit budget meeting or after the close of the polls must be marked "rejected" by the municipal clerk.

F. ~~If the school budget does not exceed the maximum state and local spending target pursuant to section 15671-A, subsection 5, the~~The article to be voted on must be in the following form:

(1) "Do you favor approving the (name of regional school unit) budget for the upcoming school year that was adopted at the latest regional school unit budget meeting?

Yes No"

G. ~~If the school budget exceeds the maximum state and local spending target pursuant to section 15671-A, subsection 5, the article to be voted on for a budget that includes locally raised funds over and above the regional school unit's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act must be in the following form:~~

(1) ~~"Do you favor approving the (name of regional school unit) budget for the upcoming school year that was adopted at the latest regional school unit budget meeting and that includes locally raised funds that exceed the required local contribution as described in the Essential Programs and Services Funding Act?~~

Yes No

~~A YES vote allows additional funds to be raised for K-12 public education.~~

~~A NO vote means additional funds cannot be raised for K-12 public education."~~

Sec. 10. 20-A MRSA §1487, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

§ 1487. Failure to pass budget

If a budget for the operation of a regional school unit is not approved prior to July 1st, the latest budget ~~as submitted by the regional school unit board~~approved at a regional school unit budget meeting and submitted to the voters for validation at a referendum in accordance with section 1486 is automatically considered the budget for operational expenses for the ensuing year until a final budget is approved, except that, when the regional school unit board delays the regional school unit budget meeting, the

operating budget must be approved within 30 days of the date the commissioner notifies the regional school unit board of the amount allocated to the regional school unit under section 15689-B, or the latest budget submitted by the regional school unit board becomes the operating budget for the next school year until a budget is approved at a regional school unit budget meeting and validated at a referendum. If the budget of a regional school unit is not approved and validated before July 1st and the officers of any affected municipality determine that the property taxes must be committed in a timely manner to the collector pursuant to Title 36, section 709, the municipal assessor or assessors may commit the property taxes on the basis of the latest budget approved at a regional school unit budget meeting and submitted to the voters for validation at a referendum in accordance with section 1486.

Sec. 11. 20-A MRSA §1506, sub-§1, ¶A, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

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

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

B. "Original education unit" means:

(1) A previous education unit that has existing debt; or

(2) A municipality that has existing debt incurred on behalf of a previous education unit; or

(3) A previous education unit within a career and technical education region as defined by section 8301-A that has existing debt.

Sec. 13. 20-A MRSA §15671-A, sub-§2, ¶B, as amended by PL 2007, c. 240, Pt. XXXX, §24, is further amended to read:

B. For property tax years beginning on or after April 1, 2005, the commissioner shall calculate the full-value education mill rate that is required to raise the statewide total local share. The full-value education mill rate is calculated for each fiscal year by dividing the applicable statewide total local share by the applicable statewide valuation. The full-value education mill rate must decline over the period from fiscal year 2005-06 to fiscal year 2008-09 and may not exceed 9.0 mills in fiscal year 2005-06 and may not exceed 8.0 mills in fiscal year 2008-09. The full-value education mill rate must be applied according to section 15688, subsection 3-A, paragraph A to determine a municipality's local cost share expectation. Full-value education mill rates must be derived according to the following schedule.

(1) For the 2005 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% statewide total local share in fiscal year 2005-06.

(2) For the 2006 property tax year, the full-value education mill rate is the amount necessary to result in a 46.14% statewide total local share in fiscal year 2006-07.

(3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a 45.56% statewide total local share in fiscal year 2007-08.

(4) ~~Except as provided in subparagraph (6), for~~For the 2008 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45.0% statewide total local share in fiscal year 2008-09 and after.

~~(6) For school administrative units that do not conform to the requirements of chapter 103-A for the 2009 property tax year, the full-value education mill rate is the amount necessary to result in a 46.14% statewide total local share in fiscal year 2009-10 and after.~~

Sec. 14. 20-A MRSA §15696, sub-§1, ¶C, as enacted by PL 2007, c. 240, Pt. XXXX, §33, is amended to read:

C. The school administrative unit is not eligible for a transition adjustment under section 15686 or any comparable year-over-year transition amount; ~~and~~

Sec. 15. 20-A MRSA §15696, sub-§1, ¶D, as enacted by PL 2007, c. 240, Pt. XXXX, §33, is amended to read:

D. The school administrative unit receives less favorable consideration for approval and funding for school construction pursuant to rules of the state board.; and

Sec. 16. 20-A MRSA §15696, sub-§1, ¶E is enacted to read:

E. The school administrative unit's full-value education mill rate pursuant to section 15671-A is increased by 2% for the purpose of calculating the school administrative unit's required contribution to meet the local share of education costs established pursuant to section 15688, subsection 3-A.

Sec. 17. PL 2007, c. 240, Pt. XXXX, §36, sub-§8 is amended to read:

8. Referendum on reorganization plan. The municipal officers of each municipality in a proposed reorganized school administrative unit shall place a warrant article substantially as follows on the ballot of a municipal referendum conducted in accordance with the referendum procedures applicable to the school administrative unit of which the municipality is a member. A referendum must be held on or before January 15, 2008 for a reorganization plan that was submitted by December 15, 2007 and that the Commissioner of Education found meets the requirements of this Part. A referendum ~~must~~may be held on June 10, 2008 ~~or on or before January 30, 2009~~ for any plan received or revised after December 15, 2007 and subsequently found by the Commissioner of Education to meet the requirements of this Part.

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

Yes/No"

The following statement must accompany the article:

"Explanation:

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

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

~~Eligibility for additional financial support for reorganization costs.~~

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

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

~~A reduction in state funding of education costs in an amount estimated to be \$_____ for school year 200_ and \$_____ for school year 200_, with the possibility of ongoing penalties for continued failure to join an approved regional school unit. Reductions in state education funding will likely result in an increased mill rate expectation to meet the local share of education costs."~~

The Department of Education shall pay the cost of a referendum conducted before or on January 15, ~~2008~~30, 2009.

Sec. 18. PL 2007, c. 240, Pt. XXXX, §36, sub-§11 is amended to read:

11. Result of disapproval at January 2008 referendum. A school administrative unit that rejects a proposed reorganization plan at the January 15, 2008 referendum or at a subsequent referendum on or before ~~November 4, 2008~~January 30, 2009 may restart the process to form a regional school unit with the same or other school administrative units and may seek assistance from the Department of Education to prepare another reorganization plan.

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

B. The penalties set forth in Title 20-A, section 15696 apply to any school administrative unit that fails to approve a reorganization plan on or before ~~November 4, 2008~~January 30, 2009 and to implement that plan by July 1, 2009.

Sec. 19. PL 2007, c. 240, Pt. XXXX, §36, sub-§12 is amended to read:

12. Reformulation of SAD as RSU. Not later than ~~December 1, 2008~~February 27, 2009, the Commissioner of Education shall notify any school administrative district that has not voted to form a regional school unit on or before ~~November 4, 2008~~January 30, 2009 that the school administrative district must be recreated as a regional school unit under Title 20-A, chapter 103-A, effective July 1, 2009. Notwithstanding any other provision of law, a school administrative district ~~may~~must be changed to a regional school unit upon notice to the State Board of Education and may accomplish this without dissolving the school administrative district. A school administrative district that is changed to a regional school unit without dissolving the school administrative district is subject to Title 20-A, chapter 103-A and any other provision of law relating to regional school units but for all other legal purposes:

A. Remains the same legal entity, including but not limited to with respect to all contracts, duties, liabilities, rights and privileges of the school administrative district and any debt, whether bond, note or other evidence of indebtedness, issued by or for the school administrative district; and

B. In order to avoid any costs associated with changing its name, may keep and continue to use the same name, including the term "school administrative district," for official purposes, including, but not limited to, in all its contracts and debt instruments. Keeping its name for official purposes does not in any manner affect its status as a regional school unit for purposes of Title 20-A, chapter 103-A and any other provision of law relating to regional school units.

Sec. 20. PL 2007, c. 240, Pt. XXXX, §42, first ¶ is amended to read:

Sec. 42. Transfer of property and assets; regional school units approved after January 15, 2008. This section applies to a regional school unit that is approved after January 15, 2008 and before ~~November 5, 2008~~January 31, 2009.

Sec. 21. PL 2007, c. 240, Pt. XXXX, §43, sub-§3 is amended to read:

3. Transfer of governing authority; regional school units approved after January 15, 2008. This subsection applies to regional school units approved after January 15, 2008 and before ~~November 5, 2008~~January 31, 2009. The regional school unit board of directors, on the date established in subsection 1, shall assume responsibility for the management and control of the public schools and programs within the school administrative units in existence prior to July 1, 2009 that are within the regional school unit. Those school administrative units in existence prior to July 1, 2009, on the date established in subsection 1, have no further responsibility for the operation or control of the public schools and programs within the school administrative unit except those pursuant to section 1481.

Sec. 22. PL 2007, c. 240, Pt. XXXX, §43, sub-§5 is amended to read:

5. Transfer of teachers and employees. Except as limited by paragraph A, for regional school units approved prior to January 16, 2008, all teachers and school employees who are employed by a participating school administrative unit on June 30, 2008 must be transferred to and employed by the regional school unit as of July 1, 2008. Except as limited by paragraph A, for regional school units approved after January 15, 2008 and before ~~November 5, 2008~~January 31, 2009, all teachers and school employees who are employed by participating school administrative units on June 30, 2009 must be transferred and employed by the regional school unit as of July 1, 2009. Except as limited by paragraph B, the regional school unit shall assume all of the legal obligations and duties that the participating school administrative units owed to their employees, including but not limited to those obligations and

duties arising under federal law, state law, collective bargaining agreements and individual employment contracts. It is the intent of this Part to neither decrease nor increase the rights and benefits of transferred employees or the employer. The regional school unit shall also maintain and honor any agreements, contracts or policies regarding the rights and benefits of retirees and former employees created by a participating school administrative unit that is dissolved as a result of its inclusion within a regional school unit.

A. For regional school units approved prior to January 16, 2008, teachers or other employees whose employment terminates by application of law or contract or by action of a participating school administrative unit before July 1, 2008 may not be transferred. For regional school units approved after January 15, 2008 and before ~~November 5, 2008~~ January 31, 2009, teachers or other employees whose employment terminates by application of law or contract or by action of a participating school administrative unit before July 1, 2009 may not be transferred.

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

Sec. 23. PL 2007, c. 240, Pt. XXXX, §43, sub-§6, ¶A is amended to read:

A. On July 1, 2008 for regional school units approved prior to January 16, 2008 and on July 1, 2009 for regional school units approved after January 15, 2008 and before ~~November 5, 2008~~ January 31, 2009, the regional school unit board of directors shall assume all of the obligations, duties, liabilities and rights of the participating school administrative units for all purposes under Title 26, chapter 9-A. The regional school unit is considered a single employer. Notwithstanding any other provision of law, the responsibilities of the regional school unit include:

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

Sec. 24. PL 2007, c. 240, Pt. XXXX, §43, sub-§6, ¶B is amended to read:

B. As early as possible but no later than August 31, 2011 for regional school units approved prior to January 15, 2008 and no later than August 31, 2012 for regional school units approved after January 15, 2008 and before ~~November 2, 2008~~ January 31, 2009, all bargaining units must be structured on a regional school unit-wide basis. Bargaining units that existed in the participating

school administrative units shall merge in accordance with the procedures and criteria in this section. Merger into regional school unit-wide bargaining units is not subject to approval or disapproval of employees.

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

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

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

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

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

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

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

(6) Where there are bargaining units that will be merged into a regional school unit-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be merged as of the operational date as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for merger of separate local affiliates of the same state labor organization described in subparagraph (5) must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent election must be conducted by the Maine Labor Relations Board pursuant to subparagraph (8).

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

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

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

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

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

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

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

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

Sec. 25. Report; review of reorganization timelines. The Department of Education shall conduct a review of the results of referenda votes on proposed reorganization plans and the status of the reorganization of school administrative units as regional school units consistent with the July 1, 2009 implementation timeline established in Public Law 2007, chapter 240. In conducting the review, the department shall:

A. Collect data and analyze the results of the referenda votes on proposed reorganization plans;

B. Review the extent to which each school administrative unit that did not meet the timelines for reorganization did not submit or did not receive approval for an alternative plan that meets the requirements of Public Law 2007, chapter 240, Part XXXX, section 36, subsection 6, paragraph A due to the fact that the proposal would not meet the 1,200 minimum student enrollment requirement for an alternative plan;

C. Recommend appropriate criteria or flexibility for the granting of a waiver when extenuating circumstances preclude a school administrative unit from meeting the requirements of Public Law 2007, chapter 240, Part XXXX, section 36 by July 1, 2009, including the authority necessary to extend timelines and waive penalties if an approved plan of a reorganization planning committee cannot be implemented by July 1, 2009 and the authority necessary to approve an alternative plan submitted by a reorganization planning committee that meets the requirements of the law, except for the 1,200 minimum student number; and

D. Recommend clarifications to the law to specify the effect of the failure of voters in an individual school administrative unit to approve a reorganization plan that results in the school administrative unit not meeting the implementation timeline for reorganization.

The Commissioner of Education shall report the findings and recommendations of this review, including suggested legislation, to the joint standing committee of the Legislature having jurisdiction over education matters by December 15, 2009. In its recommendations, the department shall include proposals to extend or modify the current implementation timelines and penalties. Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over education matters may submit a bill to the First Regular Session of the 124th Legislature that extends or modifies the current implementation timelines and penalties.

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

SUMMARY

This bill is introduced by the Joint Standing Committee on Education and Cultural Affairs pursuant to Public Law 2007, chapter 240, Part XXXX, section 47. The bill makes the following changes to clarify and improve the laws governing the formation of regional school units.

1. It provides that a kindergarten-to-grade-12 school administrative district that is reformulated as a regional school unit without dissolving the school administrative district may continue to use the same name and operate as the same legal entity; and it amends the definition of "school administrative unit" to clarify that community school districts and kindergarten-to-grade-8 school administrative districts that do not join a regional school unit may remain in operation after July 1, 2009. The current law reformulates all kindergarten-to-grade-12 school administrative districts as regional school units by July 1, 2009 but is silent on the ability of community school districts and kindergarten-to-grade-8 school administrative districts to remain operational after that date.

2. It changes the deadline by which a referendum must be held to January 30, 2009 and changes dates that are linked to the referendum date by the same amount of time. The current law governing

the reorganization of school administrative units requires that a referendum must be held on a proposed reorganization on or before November 4, 2008.

3. It provides consistent language across the allocated and unallocated provisions in the law to clarify the budget referendum ballot question to be placed before the voters at a budget validation referendum vote.

4. It clarifies and amends the budget approval and validation process provisions to:

A. Increase the number of days from the legislative body meeting to the referendum validation from 10 days to 14 days;

B. Provide that absentee ballots may not be distributed until the day after the regional school unit budget meeting;

C. In the event that a regional school unit budget has not been approved and validated prior to the start of the fiscal year, authorize municipalities to levy taxes based on the most recent school budget approved at the regional school unit budget meeting until a budget is validated by voters; and

D. Eliminate the need for 2 separate ballot questions for the budget validation referendum vote and combine information on 2 votes into one document provided with the warrant for the referendum vote.

5. It clarifies the debt liability of the school administrative units that are members of a career and technical education region, including the disposition of debt incurred for a school construction or renovation project at a career and technical education region by the school administrative units that are members of the career and technical education region.

6. It clarifies the financial responsibility for the preservation of school choice in a new regional school unit when a member municipality continues to provide tuition for students to attend a school outside of the new regional school unit. The provision provides that the member municipality is responsible for providing appropriations for any additional expense above the sending regional school unit tuition rate for students who are educated outside of the regional school unit.

7. It clarifies the rights and obligations of regional school units concerning the reassignment of teachers and other employees of the regional school unit in the transitional period from the operational date of the regional school unit until the completion of negotiations for a regional school unit-wide collective bargaining agreement.

8. It replaces the so-called "53-86% penalty" for any school administrative unit that fails to approve a reorganization plan on or before January 30, 2009 and to implement that plan by July 1, 2009 with a penalty that provides that the school administrative unit's full-value education mill rate pursuant to the Maine Revised Statutes, Title 20-A, section 15671-A is increased by 2% for the purpose of calculating the school administrative unit's required contribution to meet the local share of education costs established pursuant to Title 20-A, section 15688, subsection 3-A.

9. It directs the Department of Education to conduct a review of the results of referenda votes on proposed reorganization plans and the status of the reorganization of school administrative units as regional school units consistent with the July 1, 2009 implementation timeline. It also directs the department to develop recommendations related to the circumstances and criteria under which

the Commissioner of Education could grant a waiver to a school administrative unit that has not complied with the implementation timelines, including any necessary flexibility that would provide the commissioner with the authority to adjust the timelines for complying with the law, to waive penalties or to approve an alternative plan submitted by a reorganization planning committee. It further directs the department to clarify what happens if voters of an individual school administrative unit fail to approve a reorganization plan that results in the school administrative unit's not meeting the implementation timeline for reorganization.

FISCAL NOTE REQUIRED
(See attached)