

**123<sup>rd</sup> Legislature LD 2323 SP0931**  
**Acted Upon Without Reference To A**  
**Committee**

An Act To Remove Barriers to the Reorganization of School Administrative Units. (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.) Suggested Reference: Committee on Education and Cultural Affairs. **Presented by** Senator BOWMAN of York. Engrossed Without Reference 04/17/08. **Amended by:** HG H-1041. **Final Disposition:** Enacted, Signed 04/18/08, PUBLIC LAWS, Chapter 668.

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2008 to March 31, 2008**

**FIRST SPECIAL SESSION**  
**April 1, 2008 to April 18, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 18, 2008**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2008**

**Sec. 14. 20-A MRSA §15002-A**, as amended by PL 1989, c. 525, §2, is further amended to read:

**§15002-A. Permanent School Fund**

The Treasurer of State shall keep a separate account of all money received from sales of lands appropriated for the support of schools or from notes taken therefor and of any other money appropriated for the same purpose. Those sums shall constitute a the Permanent School Fund, which shall must be invested in such securities as are legal investments for savings banks under Title 9. The income from these investments shall must be placed in a dedicated revenue, interest-bearing account and shall must be available to be used as follows for:

**1. Alternative education, school dropouts and truants.** Financing the department's obligation to provide services to encourage the development of alternative educational education programs, including high school completion programs through adult education programs and shall must address other needs of school dropouts and truants as more specifically set forth in sections 5151 to 5153; and

**2. Allocation to school units.** Allocations to school administrative units for the purpose of surveying school systems and developing school plans. The allocations shall may not in any case exceed the unit's local share percentage determined under section 15609 of the School Finance Act chapter 606-A times the cost of those surveys or plans; and.

**Sec. 15. 20-A MRSA §15674, sub-§1, ¶C**, as enacted by PL 2003, c. 504, Pt. A, §6, is amended to read:

C. The greater of:

(1) The average of the 2 pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding, reported in accordance with section 6004, including the counts of students enrolled in an alternative education program made in accordance with section 5104-A; and

(2) The average of the 6 pupil counts for April 1st and October 1st of the 3 most recent calendar years prior to the year of funding, reported in accordance with section 6004, including the counts of students enrolled in an alternative education program and counted in accordance with section 5104-A.

See title page for effective date.

**CHAPTER 668**

**S.P. 931 - L.D. 2323**

**An Act To Remove Barriers to  
the Reorganization of School  
Administrative Units**

**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 repealed and the following enacted in its place:

**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 the following:

A. A municipal school unit;

B. A regional school unit formed pursuant to chapter 103-A;

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;

D. A school administrative district that does not provide public education for the entire span of kindergarten to grade 12 that has not reorganized as a regional school unit pursuant to chapter 103-A;

E. A community school district that has not reorganized as a regional school unit pursuant to chapter 103-A;

F. A municipal or quasi-municipal district responsible for operating public schools that has not reorganized as a regional school unit pursuant to chapter 103-A; and

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

**Sec. 2. 20-A MRSA §1305-C**, as enacted by PL 2007, c. 240, Pt. XXXX, §11, is amended to read:

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

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

**Sec. 3. 20-A MRSA §1452**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 4. 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 or alternative organizational structure 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 or alternative organizational structure, 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. 5. 20-A MRSA §1461-A** is enacted to read:

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

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

**1. Selection of superintendent.** The regional school unit board shall select a superintendent for the regional school unit in accordance with section 1051 to carry out the duties specified in section 1055. During the interim period, the salary, office and other ex-

penses of the superintendent, as well as the costs of the regional school unit board, including insurance, must be allocated to the school administrative units by the cost-sharing formula established in accordance with section 1481-A and included in the reorganization plan for the regional school unit.

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

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

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

Sec. 6. 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. 7. 20-A MRSA §1472, sub-§2, ¶C, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

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

Sec. 8. 20-A MRSA §1472-A is enacted to read:

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

**1. Election; interim secretary; duties.** Within 30 days of the issuance of a certificate of organization

for the regional school unit by the state board pursuant to section 1461, subsection 7, the members of the school boards of the school administrative units within the regional school unit shall conduct a joint meeting for the purposes of electing an interim secretary of the regional school unit and determining a date for the election of the initial regional school unit board. The interim secretary shall notify the municipal officers of the member municipalities of the regional school unit of the date of the election. The election must be conducted in accordance with section 1473, subsection 2, except that the election duties of the secretary and the regional school unit board must be performed by the interim secretary. The duties of the interim secretary include:

A. Notifying the municipal officers of the date of the election;

B. Furnishing nomination papers at least 10 days before the deadline for filing nomination papers;

C. Receiving completed nomination papers in accordance with section 1473, subsection 2;

D. Preparing and distributing election ballots in accordance with section 1473, subsection 2;

E. Receiving the town clerk's certification of the results of the voting in each member municipality;

F. Tabulating the town clerk's certification of the results of the voting in each member municipality;

G. Accepting any recount petitions that may have been filed pursuant to section 1473, subsection 2, paragraph C; and

H. Totaling the votes cast for each candidate and notifying the clerk in each municipality, the candidates and the commissioner of the final results of the voting and the names and addresses of the persons elected as directors.

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

**Sec. 9. 20-A MRSA §1472-B** is enacted to read:

**§1472-B. Staggered initial terms**

Notwithstanding section 1471, subsection 2, the initial directors elected to a regional school unit board

shall meet and draw lots for their term lengths as specified in this section.

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

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

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

**Sec. 10. 20-A MRSA §1478**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is repealed and the following enacted in its place:

**§1478. Local school committees**

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

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

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

**4. Title to property.** School property overseen by a local school committee may be owned either by the municipality or by the regional school unit as long

as there is a clear allocation of responsibilities for management of all of the school property in the regional school unit.

**Sec. 11. 20-A MRS §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 ~~the~~ a new contract pursuant to chapter 115.

**Sec. 12. 20-A MRS §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. 13. 20-A MRS §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. 14. 20-A MRS §1481**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is repealed.

**Sec. 15. 20-A MRS §1481-A** is enacted to read:

#### **§1481-A. Finances**

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

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

A. As part of a reorganization to regional school units under this chapter; or

B. As a result of a negotiated agreement between the parties to the cost-sharing agreement.

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

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

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

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

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

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

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

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

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

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

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

**Sec. 16. 20-A MRSA §1481-B is enacted to read:**

**§1481-B. 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. 17. 20-A MRSA §1482-A is enacted to read:**

**§1482-A. Budget meeting**

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

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

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

**B. Specify the time and place of the meeting;**

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

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

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

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

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

**Sec. 18. 20-A MRSA §1482-B is enacted to read:**

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

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

**1. Election of moderator. The secretary of the regional school unit board or the chair of the regional school unit board when the secretary is absent shall**

open the annual budget meeting and call for the election of a moderator, receive and count votes for the moderator and swear in the moderator.

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

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

A. The expenses necessary to operate the regional school unit;

B. Appropriations for the reserve fund; and

C. Appropriations for the contingency fund and school construction purposes.

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

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

A. Prior to the annual budget meeting, the municipal clerks of the member municipalities shall supply to the regional school unit board certified corrected copies of the registered voters of their municipalities.

B. The certified corrected copies under paragraph A must be used in determining the voters who are eligible to vote at the annual budget meeting.

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

**Sec. 19. 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. 20. 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. 21. 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. 22. 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, 1st of the first operational year of the new unit 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. 23. 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. 24. 20-A MRSA §1506, sub-§4**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

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

A. Sue and be sued in the name of the original education unit with respect to the existing debt;

B. Determine the debt service due each fiscal year on any existing debt;

C. As applicable, allocate to each member of the original education unit the member's share of the annual debt service for the existing debt of the original education unit in addition to each member's share of costs of the new unit;

D. Collect the allocation for debt service on the existing debt from the original education unit or, as applicable, from each member of the original education unit in addition to each member's share of costs of the new unit;

E. Pay the debt service on the existing debt of the original education unit when due; and

F. Take all other actions necessary and proper with respect to the existing debt.

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

**Sec. 25. 20-A MRSA §1512, sub-§6**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

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

**Sec. 26. 20-A MRSA §1701-C**, as enacted by PL 2007, c. 240, Pt. XXXX, §16, is amended to read:

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

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

**Sec. 27. 20-A MRSA §2303**, as amended by PL 1987, c. 737, Pt. C, §§52 and 106 and PL 1989, c.

6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**§2303. Additional school committee members**

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

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

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

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

**Sec. 28. 20-A MRSA §2307**, as enacted by PL 2007, c. 240, Pt. XXXX, §21, is amended to read:

**§2307. School budgets**

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

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

**2. Municipal charter.** In charter municipalities where the municipal charter confers upon a municipal council or other municipal legislative body the authority to determine the total amount of the school budget and confers upon the school committee or school board the authority to direct the expenditure of those funds for school purposes, the municipal council or other municipal legislative body shall determine the total amount of the school budget to be submitted to a budget validation referendum and the school committee or school board shall determine the allocation of the approved school budget among the cost centers of the cost center summary budget format.

**Sec. 29. 20-A MRSA §5203, sub-§4**, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

**4. Exception; no elementary school.** A school administrative unit that neither maintains an elementary school nor contracts for elementary school privileges pursuant to chapter 115 shall pay the tuition, in

accordance with chapter 219, at the public school or the approved private school of the parent's choice at which the student is accepted.

**Sec. 30. 20-A MRSA §5204, sub-§4**, as amended by PL 1985, c. 797, §32, is further amended to read:

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

**Sec. 31. 20-A MRSA §6051, sub-§1, ¶C**, as enacted by PL 1985, c. 797, §36, is amended to read:

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

**Sec. 32. 20-A MRSA §6051, sub-§4**, as amended by PL 2005, c. 683, Pt. A, §25, is further amended to read:

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

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

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

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

**Sec. 33. 20-A MRSA §6051, sub-§6**, as enacted by PL 2001, c. 344, §9, is amended to read:

6. **Report to commissioner.** Within 9 ~~6~~ months after the end of the audit period, the school board shall provide the commissioner with:

A. A copy of the audit report;

B. Accountability of all revenues and expenditures;

C. Written assurance that the audit has been conducted in accordance with applicable state and federal laws relating to financial and compliance audits; and

D. Any other information that the commissioner may require.

**Sec. 34. 20-A MRSA §15671-A, sub-§2, ¶B**, as amended by PL 2007, c. 539, Pt. C, §5, 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) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a 45.99% statewide total local share in fiscal year 2008-09.

(4-A) ~~Except as provided in subparagraph (6), for~~ For the 2009 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 2009-10 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. 35. 20-A MRSA §15672, sub-§25-A** is enacted to read:

**25-A. School administrative unit.** "School administrative unit" means a school administrative unit as defined by section 1, subsection 26 except that for those school administrative units that are members of an alternative organizational structure, the alternative organizational structure is the school administrative unit for the purposes of this chapter.

**Sec. 36. 20-A MRSA §15688, sub-§3-A, ¶B-1,** as enacted by PL 2007, c. 240, Pt. XXXX, §30, is repealed.

**Sec. 37. 20-A MRSA §15688, sub-§3-A, ¶C,** as amended by PL 2007, c. 240, Pt. XXXX, §30, is further amended to read:

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

- (1) The total cost as described in subsection 1; and
- (2) The sum of the totals calculated for each member municipality pursuant to paragraph B, subparagraph (2), plus the total calculated pursuant to paragraph B-1 if applicable.

**Sec. 38. 20-A MRSA §15689, sub-§1-B** is enacted to read:

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

**Sec. 39. 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. 40. 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. 41. 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. 42. PL 2007, c. 240, Pt. XXXX, §36, sub-§2** is amended to read:

**2. Notice of intent.** ~~By August 31, 2007, each~~ Each school administrative unit shall file with the Commissioner of Education:

A. A ~~By August 31, 2007,~~ a notice of intent to engage in planning and negotiations with other school administrative units for the purpose of developing a reorganization plan to form a regional school unit under this Part and Title 20-A, chapter 103-A; or

B. A ~~By August 31, 2007,~~ a notice of intent to submit an alternative plan that meets the requirements of subsection 6, paragraph F. An alternative plan may be submitted only by a unit that is:

- (1) An offshore island;
- (2) A school operated by a tribal school committee pursuant to the Maine Revised Statutes, Title 30, section 6214;
- (3) A school administrative unit that serves more than 2,500 students, or 1,200 students where circumstances justify an exception to the requirement of 2,500 students under subsection 6, paragraph A, where expansion of the unit would be inconsistent with the policies set forth in Title 20-A, section 1451; or
- (4) A school administrative unit that is designated as an efficient, high-performing district. For purposes of this subparagraph, a school administrative unit is designated an "efficient, high-performing district" if:

(a) It contains at least 3 schools identified as "higher performing" in the May 2007 Maine Education Policy Research Institute report "The Identification of Higher and Lower Performing Maine Schools"; and

(b) Its reported 2005-2006 per-pupil expenditures for system administration represent less

than 4% of its total per-pupil expenditures; or

C. A notice of intent to engage in planning and negotiations with other school administrative units for the purpose of developing a reorganization plan to form an alternative organizational structure in accordance with this paragraph.

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

(a) Consolidation of system administration;

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

(c) Adoption of a core curriculum and procedures for standardized testing and assessment aligned with the system of learning results established in Title 20-A, section 6209; and

(d) Adoption of consistent school policies and school calendars and a plan for consistent collective bargaining agreements.

A plan for an alternative organizational structure may include a collaborative agreement under chapter 114 and must include an interlocal agreement under Title 30-A, chapter 115. The plan must include procedures for conducting a kindergarten through grade 12 budget approval pursuant to subparagraph (2).

(2) The budget procedures of members of an alternative organizational structure must conform to the format and referendum procedures set forth in sections 1485 and 1486 for regional school units except for the time limits pursuant to section 1486, subsection 2. The budget validation referendum for all members of the alternative organizational structure must be conducted on the same day.

**Sec. 43. PL 2007, c. 240, Pt. XXXX, §36, sub-§3** is amended to read:

**3. Reorganization planning committee.** Municipalities that intend to engage in planning and negotiation to create a regional school unit or alternative organizational structure shall form a reorganization planning committee.

A. For each proposed regional school unit, the Commissioner of Education shall provide guide-

lines for the formation of a reorganization planning committee including representation from the school administrative units in existence on the effective date of this Part, member municipalities and members of the general public who are residents of the proposed regional school unit. The guidelines must include roles and responsibilities of the committee, timelines for submission of the plan, the format for reporting the reorganization plan and evaluation criteria for approval of the plan.

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

**Sec. 44. PL 2007, c. 240, Pt. XXXX, §36, sub-§4** is amended to read:

**4. Submission of plans.** ~~By December 1, 2007,~~ ~~each~~ Each school administrative unit shall submit to the Commissioner of Education ~~either:~~

A. ~~Its~~ ~~By December 1, 2007,~~ its proposed reorganization plan for consolidation into a regional school unit that meets the requirements of subsections 5 and 6; ~~or~~

B. ~~Its~~ ~~By December 1, 2007,~~ its proposed plans for reducing the cost of services within the school administrative unit to meet the requirements of subsection 6, paragraph F; ~~or~~

C. Its proposed plan for an alternative organizational structure that is consistent with the notice of intent filed and approved pursuant to subsection 2, paragraph C, subparagraph 1 and meets the requirements of subsections 5 and 6.

Each school administrative unit shall exercise due diligence and act in good faith in developing a plan that meets the requirements of this Part and furthers the intent of the Legislature to achieve sustainable, long-term administrative efficiencies.

**Sec. 45. PL 2007, c. 240, Pt. XXXX, §36, sub-§6, ¶A-1** is enacted to read:

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

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

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

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

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

**Sec. 46. 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. 47. 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. 48. 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. 49. 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. 50. 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. 51. 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. 52. 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 un-

expired 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. 53. PL 2007, c. 240, Pt. XXXX, §43, sub-§6, ¶B,** as amended by PL 2007, c. 566, §4, is further 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, except as required by subparagraph (8), 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 re-

gional 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), except that the petition for an election 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.

(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 August 31, 2012.

(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 August 31, 2012.

(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.

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

**Sec. 54. 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, 2008. 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.

**Sec. 55. Retroactivity.** Those sections of this Act that amend the Maine Revised Statutes, Title 20-A, sections 1305-C, 1701-C and 2307 apply retroactively to January 1, 2008 as long as the retroactive application does not affect the validity of any budget meeting or budget validation referendum called or conducted in accordance with prior law before the effective date of this Act.

See title page for effective date.

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## CHAPTER 669

### H.P. 1616 - L.D. 2253

#### An Act To Provide Access to Certain Medications to Certified Midwives

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

**Sec. 1. 32 MRSA §13811** is enacted to read:

**§13811. Drug administration by certified midwives under certain conditions**

A midwife who can verify to a licensed pharmacist by certification card that the midwife has met the certification standards of an international certification agency whose mission is to establish and administer certification for the credential of certified professional midwife or other certifying body recognized by the board may:

**1. Possession.** Possess, in the course of the practice of midwifery, only the noncontrolled prescription drugs and substances set out in this subsection:

A. Oxygen;

B. Oxytocin, excluding the oxytocic drug methergine, for the sole purpose of postpartum control of maternal hemorrhage;

C. Vitamin K;

D. Eye prophylaxis; and

E. Local anesthetics or numbing agents for repair of lacerations; and

**2. Administration.** Administer, in the course of the practice of midwifery, those drugs that are listed in subsection 1. When administering oxytocin, a certified midwife may not administer more than 20 units of oxytocin to a single patient. Oxytocin may be administered only for postpartum purposes in order to treat

hemorrhaging and specifically may not be used to induce labor. When a certified midwife administers oxytocin in accordance with this subsection, the certified midwife shall report that use to the maternal and child health division of the Department of Health and Human Services, the Maine Center for Disease Control and Prevention within 7 days of the use of oxytocin.

**Sec. 2. 32 MRSA §13812** is enacted to read:

**§13812. Dispensing of medication by pharmacist**

**1. Dispensing of medication.** A pharmacist, who in good faith relies upon a certification card presented by a midwife identifying that the midwife has met the certification standards described under section 13811, may sell and dispense to the midwife the non-controlled prescription drugs and substances identified in section 13811.

**2. Good faith.** A pharmacist, or person acting at the direction of a pharmacist, who:

A. In good faith sells and dispenses noncontrolled prescription drugs and substances to a midwife pursuant to this section is not liable for any adverse reactions caused by any method of use by the midwife; and

B. Makes a report relating to the dispensing of noncontrolled prescription drugs and substances to a midwife pursuant to section 13811 to an enforcement agency is immune from any civil liability that may result from that action, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.

In a proceeding in which a pharmacist, or person acting at the direction of a pharmacist, invokes the immunity provided pursuant to this section, there is a rebuttable presumption of good faith.

**Sec. 3. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 117, subchapter 11, in the subchapter headnote, the words "noncontrolled prescription drug administration" are amended to read "noncontrolled prescription drug dispensing and administration" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

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# 123rd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2008

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Legislative Document

No. 2323

S.P. 931

April 16, 2008

### **An Act To Remove Barriers to the Reorganization of School Administrative Units**

(AFTER DEADLINE)

(EMERGENCY)

---

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BOWMAN of York.

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

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

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

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

11       **Sec. 23. 20-A MRSA §6051, sub-§6,** as enacted by PL 2001, c. 344, §9, is  
12 amended to read:

13       **6. Report to commissioner.** Within 9 ~~6~~ months after the end of the audit period, the  
14 school board shall provide the commissioner with:

15       A. A copy of the audit report;

16       B. Accountability of all revenues and expenditures;

17       C. Written assurance that the audit has been conducted in accordance with  
18 applicable state and federal laws relating to financial and compliance audits; and

19       D. Any other information that the commissioner may require.

20       **Sec. 24. 20-A MRSA §15672, sub-§25-A** is enacted to read:

21       **25-A. School administrative unit.** "School administrative unit" means a school  
22 administrative unit as defined by section 1, subsection 26 except that for those school  
23 administrative units that are members of an alternative organizational structure, the  
24 alternative organizational structure is the school administrative unit for the purposes of  
25 this chapter.

26       **Sec. 25. 20-A MRSA §15688, sub-§3-A, ¶B-1,** as enacted by PL 2007, c. 240,  
27 Pt. XXXX, §30, is repealed.

28       **Sec. 26. 20-A MRSA §15688, sub-§3-A, ¶C,** as amended by PL 2007, c. 240,  
29 Pt. XXXX, §30, is further amended to read:

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

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

34       (2) The sum of the totals calculated for each member municipality pursuant to  
35 paragraph B, subparagraph (2), ~~plus the total calculated pursuant to paragraph B-~~  
36 ~~1 if applicable.~~

37       **Sec. 27. 20-A MRSA §15689, sub-§1-B** is enacted to read:

1 1-B. Adjustments to state contributions to member municipalities in regional  
2 school units or alternative organizational structure. The minimum state allocation  
3 provisions of subsection 1, paragraph B are applicable for each case in which the school  
4 administrative units in existence prior to the operational date of the new regional school  
5 unit or alternative organizational structure received an adjustment under subsection 1,  
6 paragraph B for fiscal year 2007-08 or fiscal year 2008-09. For each regional school unit  
7 or alternative organizational structure eligible under this subsection, the minimum state  
8 allocation provisions of subsection 1, paragraph B are applicable for each member  
9 municipality that was a member of the eligible school administrative units in existence  
10 prior to the operational date of the new regional school unit or alternative organizational  
11 structure.

12 **Sec. 28. PL 2007, c. 240, Pt. XXXX, §36, sub-§2** is amended to read:

13 **2. Notice of intent.** ~~By August 31, 2007, each~~ Each school administrative unit shall  
14 file with the Commissioner of Education:

15 A. ~~A~~ By August 31, 2007, a notice of intent to engage in planning and negotiations  
16 with other school administrative units for the purpose of developing a reorganization  
17 plan to form a regional school unit under this Part and Title 20-A, chapter 103-A; ~~or~~

18 B. ~~A~~ By August 31, 2007, a notice of intent to submit an alternative plan that meets  
19 the requirements of subsection 6, paragraph F. An alternative plan may be submitted  
20 only by a unit that is:

21 (1) An offshore island;

22 (2) A school operated by a tribal school committee pursuant to the Maine  
23 Revised Statutes, Title 30, section 6214;

24 (3) A school administrative unit that serves more than 2,500 students, or 1,200  
25 students where circumstances justify an exception to the requirement of 2,500  
26 students under subsection 6, paragraph A, where expansion of the unit would be  
27 inconsistent with the policies set forth in Title 20-A, section 1451; or

28 (4) A school administrative unit that is designated as an efficient, high-  
29 performing district. For purposes of this subparagraph, a school administrative  
30 unit is designated an "efficient, high-performing district" if:

31 (a) It contains at least 3 schools identified as "higher performing" in the May  
32 2007 Maine Education Policy Research Institute report "The Identification of  
33 Higher and Lower Performing Maine Schools"; and

34 (b) Its reported 2005-2006 per-pupil expenditures for system administration  
35 represent less than 4% of its total per-pupil expenditures; or

36 C. A notice of intent to engage in planning and negotiations with other school  
37 administrative units for the purpose of developing a reorganization plan to form an  
38 alternative organizational structure in accordance with this paragraph.

39 (1) A school administrative unit may be designated by the commissioner as part  
40 of an alternative organizational structure. The commissioner may designate a

1 B. ~~Its~~ By December 1, 2007, its proposed plans for reducing the cost of services  
2 within the school administrative unit to meet the requirements of subsection 6,  
3 paragraph F-; or

4 C. Its proposed plan for an alternative organizational structure that is consistent with  
5 the notice of intent filed and approved pursuant to subsection 2, paragraph C,  
6 subparagraph 1 and meets the requirements of subsections 5 and 6.

7 Each school administrative unit shall exercise due diligence and act in good faith in  
8 developing a plan that meets the requirements of this Part and furthers the intent of the  
9 Legislature to achieve sustainable, long-term administrative efficiencies.

10 **Sec. 31. PL 2007, c. 240, Pt. XXXX, §36, sub-§6, ¶A-1** is enacted to read:

11 A-1. Notwithstanding the requirements of paragraph A, the Commissioner of  
12 Education may authorize a unit to serve 1,200 or fewer students but not less than  
13 1,000 students in an isolated rural community if the proposed regional school unit  
14 meets at least one of the following criteria:

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

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

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

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

27 **Sec. 32. Retroactivity.** Those sections of this Act that amend the Maine Revised  
28 Statutes, Title 20-A, sections 1305-C, 1701-C and 2307 apply retroactively to January 1,  
29 2008.

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

## 32 SUMMARY

33 1. The bill corrects a cross-reference for the cost center summary budget format and  
34 the budget validation referendum process that school administrative districts and  
35 community school districts must comply with for budgets developed after January 1,  
36 2008.

37 2. The bill articulates, without limitation, the core functions for which a regional  
38 school unit is responsible.

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

5           4. The bill clarifies the "Method B" apportionment process of weighted votes for  
6 regional school unit boards.

7           5. The bill provides for the election and staggered terms of the initial regional school  
8 unit board.

9           6. The bill replaces the law authorizing the formation of a local school committee for  
10 a member municipality and provides greater guidance in delegating functions and  
11 responsibilities to local school committees.

12          7. The bill clarifies the relationship between a regional school unit board and a local  
13 school committee that seeks to raise additional funds for an elementary school or a  
14 secondary school that is owned or managed by the member municipality.

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

19          9. The bill clarifies the roles of the municipal officers and the school committee for  
20 municipal school units whose municipal charters give authority to approve the school  
21 budget to the municipal officers.

22          10. The bill establishes the requirements for calling a budget meeting and the  
23 procedures for the budget meeting.

24          11. The bill clarifies the assumption of existing debt that is transferred from an  
25 original education unit to a new regional school unit that is formed after July 1, 2008.

26          12. The bill removes references to "elementary" schools in the school closure  
27 provisions to clarify that secondary schools are also subject to these requirements.

28          13. The bill authorizes a municipal school committee to expand its membership from  
29 5 members to as many as 7 members.

30          14. The bill clarifies the provisions governing tuition when there is no elementary  
31 school or no secondary school in a school administrative unit.

32          15. The bill clarifies the content and timing of the audit provisions.

33          16. The bill repeals a unit of law, and corrects a cross-reference to it, regarding the  
34 requirement that each municipality that is a member of a new regional school unit  
35 contribute a minimum of 2 mills of the municipality's property fiscal capacity to the total  
36 cost of education of the new regional school unit.

1       17. The bill grandfathers the special education adjustment for so-called minimum  
2       subsidy receivers.

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

7       19. The bill authorizes the Commissioner of Education to approve plans for  
8       alternative organizational structures under the school reorganization law. To approve a  
9       plan for an alternative organizational structure, the commissioner must find that the plan  
10      will satisfy the purposes of the school reorganization law including: consolidation of  
11      system administration; consolidation of administration of special education,  
12      transportation and business functions; adoption of a core curriculum; and adoption of  
13      consistent school policies, school calendars and collective bargaining agreements.

14  
15

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



# 123rd MAINE LEGISLATURE

LD

LR 3653(01)

## An Act To Remove Barriers to the Reorganization of School Administrative Units

**Fiscal Note for Original Bill**

**Sponsor: Sen. Bowman of York**

**Committee: Not Referred**

**Fiscal Note Required: Yes**

---

### Fiscal Note

No State fiscal impact

#### Fiscal Detail and Notes

Although this legislation will not impact the total state and local cost of funding K-12 public education, beginning in fiscal year 2008-09 it may affect the distribution of subsidy to local school administrative units with some units receiving more subsidy and some units receiving less subsidy. The impact to individual school administrative units can not be determined at this time.

H. of S.

L.D. 2323

1

2

Date: 4-17-08

(Filing No. H-1041)

3

Reproduced and distributed under the direction of the Clerk of the House.

4

STATE OF MAINE

5

HOUSE OF REPRESENTATIVES

6

123RD LEGISLATURE

7

FIRST SPECIAL SESSION

8

HOUSE AMENDMENT "G" to S.P. 931, L.D. 2323, Bill, "An Act To Remove  
9 Barriers to the Reorganization of School Administrative Units"

10

Amend the bill by striking out all of the emergency preamble (page 1, lines 1 to 16 in  
11 L.D.)

12

Amend the bill by inserting after section 3 the following:

13

'Sec. 4. 20-A MRSA §1461, sub-§5, as enacted by PL 2007, c. 240, Pt. XXXX,  
14 §13, is amended to read:

15

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

20

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

24

Yes No"

25

The following statement must accompany the article:

26

"Explanation:

27

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

32

Amend the bill by inserting after section 4 the following:

33

'Sec. 5. 20-A MRSA §1464, sub-§4 is enacted to read:

R. 88.

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

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

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

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

35 Amend the bill by inserting after section 8 the following:

36 **'Sec. 9. 20-A MRSA §1479, sub-§3, ¶B, as enacted by PL 2007, c. 240, Pt.**  
37 **XXXX, §13, is amended to read:**

38 **B. The regional school unit may negotiate the a new contract pursuant to chapter**  
39 **115.**

40 **Sec. 10. 20-A MRSA §1479, sub-§4, as enacted by PL 2007, c. 240, Pt. XXXX,**  
41 **§13, is amended to read:**

42 **4. Absence of contract; maintenance of school choice opportunities.** A student  
43 ~~who resides in a school administrative unit that does not maintain that student's grade~~

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

11 **Sec. 11. 20-A MRSA §1479, sub-§5,** as enacted by PL 2007, c. 240, Pt. XXXX,  
12 §13, is amended to read:

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

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

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

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

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

R. 4. 8.

1 Amend the bill by inserting after section 10 the following:

2 'Sec. 11. 20-A MRSA §1481-B is enacted to read:

3 **§1481-B. Application**

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

6 This section is repealed July 1, 2009.'

7 Amend the bill by inserting after section 12 the following:

8 'Sec. 13. 20-A MRSA §1486, sub-§2, as enacted by PL 2007, c. 240, Pt. XXXX,  
9 §13, is amended to read:

10 **2. Validation referendum procedures.** The budget validation referendum must be  
11 held on or before the ~~40th~~ 14th calendar day, other than Saturday, Sunday or a legal  
12 ~~holiday,~~ following the scheduled date of the regional school unit budget meeting. The  
13 referendum may not be held on a Saturday, Sunday or legal holiday. The vote at  
14 referendum is for the purpose of approving or rejecting the total regional school unit  
15 budget approved at the regional school unit budget meeting. The regional school unit  
16 board shall provide printed information to be displayed at polling places to assist voters in  
17 voting. That information is limited to the total amounts proposed by the regional school  
18 unit board for each cost center summary budget category article, the amount approved at  
19 the regional school unit budget meeting, a summary of the total authorized expenditures  
20 and, if applicable because of action on an article under section 15690, subsection 3,  
21 paragraph A, a statement that the amount approved at the regional school unit budget  
22 meeting includes locally raised funds ~~ever and above the regional school unit's local~~  
23 ~~contribution to the total cost of funding public education from kindergarten to grade 12 as~~  
24 ~~described in the Essential Programs and Services Funding Act that exceed the maximum~~  
25 state and local spending target pursuant to section 15671-A, subsection 5.

26 **Sec. 14. 20-A MRSA §1486, sub-§3,** as enacted by PL 2007, c. 240, Pt. XXXX,  
27 §13, is amended to read:

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

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

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

35 C. The warrant and absentee ballots must be delivered to the municipal clerk at least  
36 7 days before no later than the day after the date of the regional school unit budget  
37 meeting.

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

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

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

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

13 Yes No"

14 ~~G. If the school budget exceeds the maximum state and local spending target~~  
15 ~~pursuant to section 15671-A, subsection 5, the article to be voted on for a budget that~~  
16 ~~includes locally raised funds over and above the regional school unit's local~~  
17 ~~contribution to the total cost of funding public education from kindergarten to grade~~  
18 ~~12 as described in the Essential Programs and Services Funding Act must be in the~~  
19 ~~following form:~~

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

24 Yes No

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

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

27 **Sec. 15. 20-A MRSA §1487**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is  
28 amended to read:

29 **§1487. Failure to pass budget**

30 If a budget for the operation of a regional school unit is not approved prior to July  
31 1st, the latest budget as ~~submitted by the regional school unit board~~ approved at a  
32 regional school unit budget meeting and submitted to the voters for validation at a  
33 referendum in accordance with section 1486 is automatically considered the budget for  
34 operational expenses for the ensuing year until a final budget is approved, except that,  
35 when the regional school unit board delays the regional school unit budget meeting, the  
36 operating budget must be approved within 30 days of the date the commissioner notifies  
37 the regional school unit board of the amount allocated to the regional school unit under  
38 section 15689-B, or the latest budget submitted by the regional school unit board  
39 becomes the operating budget for the next school year until a budget is approved at a  
40 regional school unit budget meeting and validated at a referendum. If the budget of a  
41 regional school unit is not approved and validated before July 1st and the officers of any  
42 affected municipality determine that the property taxes must be committed in a timely

1 manner to the collector pursuant to Title 36, section 709, the municipal assessor or  
2 assessors may commit the property taxes on the basis of the latest budget approved at a  
3 regional school unit budget meeting and submitted to the voters for validation at a  
4 referendum in accordance with section 1486.'

5 Amend the bill by striking out all of section 13 and inserting the following:

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

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

14 Sec. 14. 20-A MRSA §1506, sub-§1, ¶B, as enacted by PL 2007, c. 240, Pt.  
15 XXXX, §13, is amended to read:

16 B. "Original education unit" means:

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

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

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

22 Amend the bill by inserting after section 23 the following:

23 'Sec. 24. 20-A MRSA §15671-A, sub-§2, ¶B, as amended by PL 2007, c. 539,  
24 Pt. C, §5, is further amended to read:

25 B. For property tax years beginning on or after April 1, 2005, the commissioner shall  
26 calculate the full-value education mill rate that is required to raise the statewide total  
27 local share. The full-value education mill rate is calculated for each fiscal year by  
28 dividing the applicable statewide total local share by the applicable statewide  
29 valuation. The full-value education mill rate must decline over the period from fiscal  
30 year 2005-06 to fiscal year 2008-09 and may not exceed 9.0 mills in fiscal year 2005-  
31 06 and may not exceed 8.0 mills in fiscal year 2008-09. The full-value education mill  
32 rate must be applied according to section 15688, subsection 3-A, paragraph A to  
33 determine a municipality's local cost share expectation. Full-value education mill  
34 rates must be derived according to the following schedule.

35 (1) For the 2005 property tax year, the full-value education mill rate is the  
36 amount necessary to result in a 47.4% statewide total local share in fiscal year  
37 2005-06.

1 (2) For the 2006 property tax year, the full-value education mill rate is the  
2 amount necessary to result in a 46.14% statewide total local share in fiscal year  
3 2006-07.

4 (3) For the 2007 property tax year, the full-value education mill rate is the  
5 amount necessary to result in a 45.56% statewide total local share in fiscal year  
6 2007-08.

7 (4) For the 2008 property tax year, the full-value education mill rate is the  
8 amount necessary to result in a 45.99% statewide total local share in fiscal year  
9 2008-09.

10 (4-A) ~~Except as provided in subparagraph (6), for~~ For the 2009 property tax year  
11 and subsequent tax years, the full-value education mill rate is the amount  
12 necessary to result in a 45.0% statewide total local share in fiscal year 2009-10  
13 and after.

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

18 Amend the bill by inserting after section 27 the following:

19 'Sec. 28. 20-A MRSA §15696, sub-§1, ¶C, as enacted by PL 2007, c. 240, Pt.  
20 XXXX, §33, is amended to read:

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

23 'Sec. 29. 20-A MRSA §15696, sub-§1, ¶D, as enacted by PL 2007, c. 240, Pt.  
24 XXXX, §33, is amended to read:

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

27 'Sec. 30. 20-A MRSA §15696, sub-§1, ¶E is enacted to read:

28 E. The school administrative unit's full-value education mill rate pursuant to section  
29 15671-A is increased by 2% for the purpose of calculating the school administrative  
30 unit's required contribution to meet the local share of education costs established  
31 pursuant to section 15688, subsection 3-A.'

32 Amend the bill by inserting after section 31 the following:

33 'Sec. 32. PL 2007, c. 240, Pt. XXXX, §36, sub-§8 is amended to read:

34 8. **Referendum on reorganization plan.** The municipal officers of each  
35 municipality in a proposed reorganized school administrative unit shall place a warrant  
36 article substantially as follows on the ballot of a municipal referendum conducted in  
37 accordance with the referendum procedures applicable to the school administrative unit  
38 of which the municipality is a member. A referendum must be held on or before January

1 15, 2008 for a reorganization plan that was submitted by December 15, 2007 and that the  
 2 Commissioner of Education found meets the requirements of this Part. A referendum  
 3 must may be held on June 10, 2008 or on or before January 30, 2009 for any plan  
 4 received or revised after December 15, 2007 and subsequently found by the  
 5 Commissioner of Education to meet the requirements of this Part.

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

10 Yes/No"

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

12 ~~"Explanation:~~

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

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

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

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

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

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

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

31 **Sec. 33. PL 2007, c. 240, Pt. XXXX, §36, sub-§11** is amended to read:

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

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

1 B. The penalties set forth in Title 20-A, section 15696 apply to any school  
2 administrative unit that fails to approve a reorganization plan on or before November  
3 4, 2008 January 30, 2009 and to implement that plan by July 1, 2009.

4 **Sec. 34. PL 2007, c. 240, Pt. XXXX, §36, sub-§12** is amended to read:

5 **12. Reformulation of SAD as RSU.** Not later than ~~December 1, 2008~~ February 27,  
6 2009, the Commissioner of Education shall notify any school administrative district that  
7 has not voted to form a regional school unit on or before ~~November 4, 2008~~ January 30,  
8 2009 that the school administrative district must be recreated as a regional school unit  
9 under Title 20-A, chapter 103-A, effective July 1, 2009. Notwithstanding any other  
10 provision of law, a school administrative district may must be changed to a regional  
11 school unit upon notice to the State Board of Education and may accomplish this without  
12 dissolving the school administrative district. A school administrative district that is  
13 changed to a regional school unit without dissolving the school administrative district is  
14 subject to Title 20-A, chapter 103-A and any other provision of law relating to regional  
15 school units but for all other legal purposes:

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

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

26 **Sec. 35. PL 2007, c. 240, Pt. XXXX, §42, first ¶** is amended to read:

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

30 **Sec. 36. PL 2007, c. 240, Pt. XXXX, §43, sub-§3** is amended to read:

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

41 **Sec. 37. PL 2007, c. 240, Pt. XXXX, §43, sub-§5** is amended to read:

1       **5. Transfer of teachers and employees.** Except as limited by paragraph A, for  
2 regional school units approved prior to January 16, 2008, all teachers and school  
3 employees who are employed by a participating school administrative unit on June 30,  
4 2008 must be transferred to and employed by the regional school unit as of July 1, 2008.  
5 Except as limited by paragraph A, for regional school units approved after January 15,  
6 2008 and before ~~November 5, 2008~~ January 31, 2009, all teachers and school employees  
7 who are employed by participating school administrative units on June 30, 2009 must be  
8 transferred and employed by the regional school unit as of July 1, 2009. Except as  
9 limited by paragraph B, the regional school unit shall assume all of the legal obligations  
10 and duties that the participating school administrative units owed to their employees,  
11 including but not limited to those obligations and duties arising under federal law, state  
12 law, collective bargaining agreements and individual employment contracts. It is the  
13 intent of this Part to neither decrease nor increase the rights and benefits of transferred  
14 employees or the employer. The regional school unit shall also maintain and honor any  
15 agreements, contracts or policies regarding the rights and benefits of retirees and former  
16 employees created by a participating school administrative unit that is dissolved as a  
17 result of its inclusion within a regional school unit.

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

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

29       **Sec. 38. PL 2007, c. 240, Pt. XXXX, §43, sub-§6, ¶A** is amended to read:

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

37           (1) Continued recognition of all bargaining agents that represented any  
38 bargaining units of employees who were employed by a participating school  
39 administrative unit, pending completion of merger proceedings described in this  
40 section;

41           (2) Assumption and continued observance of all collective bargaining  
42 agreements between such bargaining agents and a participating school  
43 administrative unit, which agreements continue in effect for the remainder of  
44 their unexpired term unless the bargaining agent and regional school unit  
45 mutually agree otherwise; and

HOUSE AMENDMENT "G" to S.P. 931, L.D. 2323

1 (3) Collective bargaining for an initial or successor collective bargaining  
2 agreement in any bargaining unit in which a collective bargaining agreement is  
3 not in effect on the operational date and for any interim agreement that may be  
4 required to align expiration dates in a regional school unit-wide bargaining unit,  
5 as described in this subsection.

6 **Sec. 39. PL 2007, c. 240, Pt. XXXX, §43, sub-§6, ¶B**, as amended by PL  
7 2007, c. 566, §4, is further amended to read:

8 B. As early as possible but no later than August 31, 2011 for regional school units  
9 approved prior to January 15, 2008 and no later than August 31, 2012 for regional  
10 school units approved after January 15, 2008 and before ~~November 2, 2008~~ January  
11 31, 2009, all bargaining units must be structured on a regional school unit-wide basis.  
12 Bargaining units that existed in the participating school administrative units shall  
13 merge in accordance with the procedures and criteria in this section. Merger into  
14 regional school unit-wide bargaining units is not subject to approval or disapproval of  
15 employees.

16 (1) Merger into regional school unit-wide bargaining units must be completed  
17 according to the schedule contained in this subsection, and, except as required by  
18 subparagraph (8), no later than the latest expiration date of any collective  
19 bargaining agreement that was in effect on the operational date, which covered  
20 any employees in the merged unit.

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

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

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

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

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

40 (5) When all bargaining units that will be merged into a regional school unit-  
41 wide bargaining unit are represented by separate local affiliates of the same state  
42 labor organization, the units must be merged as of the operational date. The  
43 identity of the single affiliate that will be designated the bargaining agent for the  
44 merged unit must be selected by the existing bargaining agents and the state labor

**HOUSE AMENDMENT**

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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), except that the petition for an election 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.

(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 August 31, 2012.

(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

- 1 event may any collective bargaining agreement that is executed after the
- 2 operational date extend beyond August 31, 2012.
- 3 (e) The Maine Labor Relations Board shall expedite to the extent practicable
- 4 all petitions for determination of the bargaining agent in the regional school
- 5 unit-wide bargaining unit filed pursuant to this subsection.
- 6 (f) The bargaining units must be merged into a regional school unit-wide
- 7 bargaining unit as of the date of certification of the results of the election by
- 8 the Maine Labor Relations Board, or the expiration of the collective
- 9 bargaining agreements in the unit, whichever occurs later.
- 10 (g) Until August 31, 2012, existing bargaining agents shall continue to
- 11 represent the bargaining units that they represented on the day prior to the
- 12 operational date of the regional school unit. If necessary, each bargaining
- 13 agent and the regional school unit must negotiate an interim collective
- 14 bargaining agreement to expire on August 31, 2012.

15 **Sec. 40. Report; review of reorganization timelines.** The Department of  
 16 Education shall conduct a review of the results of referenda votes on proposed  
 17 reorganization plans and the status of the reorganization of school administrative units as  
 18 regional school units consistent with the July 1, 2009 implementation timeline established  
 19 in Public Law 2007, chapter 240. In conducting the review, the department shall:

- 20 A. Collect data and analyze the results of the referenda votes on proposed
- 21 reorganization plans;
- 22 B. Review the extent to which each school administrative unit that did not meet the
- 23 timelines for reorganization did not submit or did not receive approval for an alternative
- 24 plan that meets the requirements of Public Law 2007, chapter 240, Part XXXX, section
- 25 36, subsection 6, paragraph A due to the fact that the proposal would not meet the 1,200
- 26 minimum student enrollment requirement for an alternative plan;
- 27 C. Recommend appropriate criteria or flexibility for the granting of a waiver when
- 28 extenuating circumstances preclude a school administrative unit from meeting the
- 29 requirements of Public Law 2007, chapter 240, Part XXXX, section 36 by July 1, 2009,
- 30 including the authority necessary to extend timelines and waive penalties if an approved
- 31 plan of a reorganization planning committee cannot be implemented by July 1, 2009 and
- 32 the authority necessary to approve an alternative plan submitted by a reorganization
- 33 planning committee that meets the requirements of the law, except for the 1,200
- 34 minimum student number; and
- 35 D. Recommend clarifications to the law to specify the effect of the failure of voters in
- 36 an individual school administrative unit to approve a reorganization plan that results in
- 37 the school administrative unit not meeting the implementation timeline for
- 38 reorganization.

39 The Commissioner of Education shall report the findings and recommendations of  
 40 this review, including suggested legislation, to the joint standing committee of the  
 41 Legislature having jurisdiction over education matters by December 15, 2008. In its  
 42 recommendations, the department shall include proposals to extend or modify the current  
 43 implementation timelines and penalties. Following receipt and review of the report, the

1 joint standing committee of the Legislature having jurisdiction over education matters  
 2 may submit a bill to the First Regular Session of the 124th Legislature that extends or  
 3 modifies the current implementation timelines and penalties.'

4 Amend the bill by striking out all of section 32 and inserting the following:

5 'Sec. 32. **Retroactivity.** Those sections of this Act that amend the Maine Revised  
 6 Statutes, Title 20-A, sections 1305-C, 1701-C and 2307 apply retroactively to January 1,  
 7 2008 as long as the retroactive application does not affect the validity of any budget  
 8 meeting or budget validation referendum called or conducted in accordance with prior  
 9 law before the effective date of this Act.'

10 Amend the bill by striking out all of the emergency clause.

11 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
 12 section number to read consecutively.

### 13 SUMMARY

14 This amendment strikes the emergency preamble and emergency clause and  
 15 incorporates the following changes to clarify and improve the laws governing the  
 16 formation of regional school units or alternative organizational structures.

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

27 2. It changes the deadline by which a referendum must be held to January 30, 2009  
 28 and changes dates that are linked to the referendum date by the same amount of time.  
 29 The current law governing the reorganization of school administrative units requires that  
 30 a referendum must be held on a proposed reorganization on or before November 4, 2008.

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

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

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

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

39 C. In the event that a regional school unit budget has not been approved and  
 40 validated prior to the start of the fiscal year, authorize municipalities to levy taxes

1 based on the most recent school budget approved at the regional school unit budget  
2 meeting until a budget is validated by voters; and

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

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

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

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

21 8. It replaces the so-called "53.86% penalty" for any school administrative unit that  
22 fails to approve a reorganization plan on or before January 30, 2009 and to implement  
23 that plan by July 1, 2009 with a penalty that provides that the school administrative unit's  
24 full-value education mill rate pursuant to the Maine Revised Statutes, Title 20-A, section  
25 15671-A is increased by 2% for the purpose of calculating the school administrative unit's  
26 required contribution to meet the local share of education costs established pursuant to  
27 Title 20-A, section 15688, subsection 3-A.

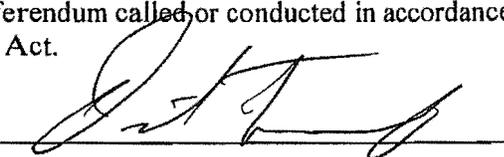
28 9. It directs the Department of Education to conduct a review of the results of  
29 referenda votes on proposed reorganization plans and the status of the reorganization of  
30 school administrative units as regional school units consistent with the July 1, 2009  
31 implementation timeline. It also directs the department to develop recommendations  
32 related to the circumstances and criteria under which the Commissioner of Education  
33 could grant a waiver to a school administrative unit that has not complied with the  
34 implementation timelines, including any necessary flexibility that would provide the  
35 commissioner with the authority to adjust the timelines for complying with the law, to  
36 waive penalties or to approve an alternative plan submitted by a reorganization planning  
37 committee. It further directs the department to clarify what happens if voters of an  
38 individual school administrative unit fail to approve a reorganization plan that results in  
39 the school administrative unit's not meeting the implementation timeline for  
40 reorganization.

41 10. It provides that the sections of the Act that amend the Maine Revised Statutes,  
42 Title 20-A, sections 1305-C, 1701-C and 2307 apply retroactively to January 1, 2008 as  
43 long as the retroactivity application does not affect the validity of a budget meeting or

H. 931

HOUSE AMENDMENT "G" to S.P. 931, L.D. 2323

1 budget validation referendum called or conducted in accordance with prior law before the  
2 effective date of this Act.

3 SPONSORED BY: 

4 (Representative FARRINGTON)

5 TOWN: Gorham

FISCAL NOTE REQUIRED  
(See Attached)



# 123rd MAINE LEGISLATURE

LD 2323

LR 3653(10)

**An Act To Remove Barriers to the Reorganization of School Administrative Units**

**Fiscal Note for House Amendment "E"**  
**Sponsor: Rep. Farrington of Gorham**  
**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Removing the emergency preamble and emergency clause from this legislation will delay the provisions included in this bill to address certain barriers in implementing the reorganization of school administrative units pursuant to Public Law 2007, chapter 240, Part XXXX.

Any additional cost to the Department of Education associated with conducting the required review and developing the required recommendations can be absorbed within existing budgeted resources.

**SENATE PAPERS**

**Non-Concurrent Matter**

An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services (EMERGENCY)

(H.P. 1466) (L.D. 2080)  
(C. "A" H-989)

**PASSED TO BE ENACTED** in the House on April 15, 2008.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-989) AS AMENDED BY SENATE AMENDMENT "A" (S-658)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

**COMMUNICATIONS**

The Following Communication: (H.C. 536)

**STATE OF MAINE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
COMMITTEE ON JUDICIARY**

April 17, 2008

Honorable Beth Edmonds, President of the Senate  
Honorable Glenn Cummings, Speaker of the House  
123rd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2306 An Act To Amend the Definition of "Penobscot Indian Reservation"

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Barry J. Hobbins

Senate Chair

S/Rep. Deborah Simpson

House Chair

**READ and ORDERED PLACED ON FILE.**

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Remove Barriers to the Reorganization of School Administrative Units" (EMERGENCY)

(S.P. 931) (L.D. 2323)

Which was **TABLED** by Representative PINGREE of North Haven pending **REFERENCE**.

Representative **SCHATZ** of Blue Hill moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Blue Hill, Representative **Schatz**.

Representative **SCHATZ**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This bill, we are told, is replacing some of the features or has within it some of the features that were in a bill that we passed over two weeks ago, but it doesn't have all of them. Later on, maybe as part of this discussion, you will hear that it contains enough to make us feel good about passing it. It will assure that we can go back home and be able to work with our constituents in going forward and putting together the regional intent of school consolidation, whether we view that as being positive or negative, it probably doesn't matter at this time.

But I would like to speak for a second towards the tactics,

whether we consider going home with a half a loaf, a full loaf or even some crumbs, it seems to me that we are at where we were at the end of our last session, where there was some last minute scurrying around and some understandings developed that would make some people feel comfortable so they could go forward and vote for the budget last year. Then, when they got home and they started working on it, they found, indeed, that a lot of the things they thought were there weren't, primarily because, again, it was a last minute effort done at a point in time where, as we all know, we have run out of clean clothes and run out of patience as well and we are anxious to go home.

I would say that we should have learned from that experience, and I hope we have learned that perhaps it is better to go back home not committed to another flawed effort at bringing us together, but go back home with a resolve to work with what was there in the first place. We all know what our funding is within our schools, we can work with the administrators and the staff and the school committees that are in place to make a better educational environment for our students, and come back with maybe more energy and wisdom, so that a school, whether it be a consolidation effort or just a school delivery system, an educational delivery system that makes sense to us all, can be put in place in the 124th. I think it is a little late to look at any legislation at this point in time, and hope for it to be well thought out. I would hope that I would get some agreement; if not, I would like the majority to agree with this Indefinite Postponement. Thank you, Mr. Speaker.

Representative **PINGREE** of North Haven **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Greenville, Representative **Johnson**.

Representative **JOHNSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As a famous American philosopher once said, this is déjà vu all over again. I think it is instructive to recap some of the things that have happened.

About six years ago, we were told that there would be \$240 million of savings if we consolidated school systems, that no school ought to be bigger than 350 students to get new construction. A year ago, we booked \$34 million of savings from the school budget as a result of this consolidation effort. I would maintain that those savings have not occurred. After that, we have an aggressive propaganda campaign conducted by the administration and some legislators to proceed with this consolidation law.

What is wrong with this law, anyway? It relies on penalties instead of incentives to encourage compliance; it does not address the inequities in state GPA for education; it is going to result in schools being closed; it removes citizens from the direct budget process that supports their school districts; it removes accountability of education system performance from local control.

Why will amending the law not resolve the deficiencies in the current law? Penalties remain in effect, inequities and GPA funding still exists; cost sharing among RSU partners will be developed in an inconsistent way that will result in uneven educational opportunities across the state.

What should we do at this juncture? The thing we should do is repeal the current law. We should form stakeholders groups to investigate and suggest to the 124th Legislature ways to consolidate services and organizations by providing incentives that would do the following: improve state education statewide,

taking in account our demographics; stimulate economic development across the state; revamp the current GPA funding system to ensure equitable funding of public education that includes a realistic funding flow for all communities; maintain and strengthen the role of local communities and parents in the education of their children, this makes better parents and better communities; consolidate and remove unnecessary mandates from our school systems.

In my briefcase, I have a report from the state which outlines over 300 reports that our schools are required to be able to submit. We need to fund education at the previous year's level, while this study goes on. Colleagues, this is our opportunity to correct a serious mistake. Let's put this back on track for the education of our children, the economic vitality of our communities, and for the good of our state. Now is the time to cast the most important vote you will cast in this legislative session. Make your constituents proud. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Edgecomb.

Representative EDGECOMB: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have been told that this bill, 2323, does everything that 1932 had in it that was rejected by the second floor. Well, why was it rejected if it had everything in that one that we have in 2323? I was told about this bill yesterday. That was the last day of the session, and here we are past the last day of the session and we are considering legislation that should have gone through the Education Committee. It should have had input from our citizens.

Aroostook County has many students in it; there are only five counties in the State of Maine that have more students than Aroostook County, yet I do not know of a parent, a teacher, an administrator or a school board member that was asked for their opinion or input on this legislation.

I maintain that we will be back here in January trying to correct the legislation that we have tried to put through at a midnight hour. This is what happened to us in June; please do not let this happen again. Some feel that we are in a tight situation where we have to do something, but I think in this case, doing something is worse than leaving it the way it is and we could come back in January and do the right thing for the children in the State of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have a considerable number of years experience in education and I had the good fortune to wear about every hat there was to go in education, starting from a beginning teacher that was responsible for some of the bus driving and janitorial duties and so forth. I have gone over this, I served many years in administration, and I would like to share with you just my reflections on what this bill does.

This bill creates the greatest confusion that can possibly happen to any school district or potential school district. There are 19 different steps in here: There is the creation of a new type of school district, a quasi municipal district responsible for operating public schools, an alternative organizational structure approved by the commissioner. Ladies and Gentlemen of the House, there is absolutely no way that between now and the date that is listed in this, when you are supposed to have approval of the commissioner, that you could possibly come up with a school unit that could meet these requirements. I urge you to support the Indefinite Postponement of this bill.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

Representative STRANG BURGESS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Clearly, now everybody is going to clear out for ice-cream. I think that sort of says a lot about what is going on right now. I am rising to speak against Indefinite Postponement of LD 2323. Ladies and Gentlemen, the time is now to do the right thing for the citizens of Maine and get back to work and get this bill done. The citizens have been waiting for four and a half months. We are the laughing stock of the state. What goes on up here is just unable to be fathomed by anybody; in fact, probably by some of us that are right here in the middle of it.

The arguments of talking about not vetting this bill are really unfounded. This bill and the elements of it have been vetted and vetted; they have had a public hearing; they have had more work sessions than you can ever shake a stick at. We worked this bill before Christmas. This is all of the original elements of 1932, plus everything that the Education Committee worked on right up to the time the bill was actually reported out, which was sometime well into January. It went through all of the regular procedure and process. Then, it has been high jacked and it has been Postponed, Indefinitely Postponed, and put around in so many different configurations by parliamentary procedure. Meanwhile, desperately, people have been meeting and talking to everybody who had the different opinion to be part of the solution, to make education work as the best it could possibly be for the students of the State of Maine. That is why we are here, that is who we are needing to do the best thing for. And, by the way, we are also responsible for the financial parts of things. Guess what? The system we have now is unable to be financially sustained as it currently is; it is off the track and cannot be funded, changes must be made.

It is hard to make really important decisions. Maybe people at home don't really understand all of the details that everybody in this Chamber should very well understand. It is time for people to get the backbone and do the right thing, because you are supposed to understand the big picture. The big picture is that we have to make fundamental changes. This bill represents some hard, hard work, some smart thinking by about the smartest people that we have in the State of Maine; they have worked tirelessly, nonstop on this bill since the beginning of December. It is time to get it done, folks. There have been so many of these school districts that are all up here and talking about how they have to keep things the way they are, everything is perfect. I haven't seen a school district that has come before the Education Committee that isn't the most perfect. Well, everybody can't be perfect. Everybody can't have the most perfect scores, because, guess what? We have issues with our scoring and our kids; we need to work on that, too. So this is the beginning of getting this education train back on the track. I urge you all to please stop all of this posturing and get to work so the citizens of Maine can have a little faith in the Legislature that they elected, and get this work done. I urge you to oppose the motion on the floor to Indefinitely Postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative KOFFMAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to thank the good Representative from Cumberland, Representative Strang Burgess, for her very cogent, articulate presentation of the realities that we face and the opportunities that we face, and I thank her for her service along with the Education and Cultural Affairs Committee to bring us to this point.

Representative MCLEOD of Lee inquired if a Quorum was present.

The Chair ordered a quorum call.

More than half of the members responding, the Chair declared a Quorum present.

The SPEAKER: The Chair recognizes the Representative from Sullivan, Representative Eaton.

Representative EATON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In the good words of the good Representative from Greenville, it is déjà vu all over again. Mr. Speaker, I find it hard to believe that my constituents think I am a laughing stock for representing their interests in this great body. Posturing? I think not.

There have been, once again, last minute efforts to force us to cave into pressure under the guise of last minutes and what will we do. If you don't support this, you will have done nothing to help the school consolidation. You will have nothing to take home. It sounds just like 10 months ago, on a June night in this body, late one night, when many of us listened to it then, and our communities have been paying a price ever since. Well, we did in fact have a plan from this House as to how to amend this and make this better, but it was vetoed. Can you explain and guarantee the implications of this bill to your constituents?

Mr. Speaker, we should Indefinitely Postpone, we should reject this bill, and our communities should rise together in refusal to implement this plan until the stakeholders of this great state are allowed to participate in the process from the beginning. The only fair option except for Indefinite Postponement is repeal.

One final cliché, if I may, Mr. Speaker: Slap me once, shame on you. Slap me twice, shame on me. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Brautigam.

Representative BRAUTIGAM: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. That is hard to follow, but I just have to say we are at the posture of Indefinitely Postponing this measure. It is not on behalf of consolidation and, frankly, not even on behalf of my particular school district that I rise to echo what the good Representative Strang Burgess said a few moments ago, in my more humble words. This is probably about our institution here. Can we get our job done? If we Indefinitely Postpone this bill, if we Indefinitely Postpone this issue, we will not have gotten our job done. We cannot go home and leave the situation as it is right now. We have dozens and dozens of people in each of our districts that have been struggling mightily with this issue, have been begging us, pleading us for a resolution one way or another. This is a motion to Indefinite Postpone. I am not here asking you to take any particular position on any particular legislation, I am just asking you let's not give up, let's get it done. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Treat.

Representative TREAT: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have not been a big fan of either the way the legislation that we enacted in the budget last year was put together, was passed, or the words of that piece of legislation. I don't think a 100 page document should have been enacted in a budget. I don't think it should have been done through the multiple committees that had their hands on it. It shouldn't have been done as a cost saving measure and all of that. On the other hand, I have a real concern about Indefinitely Postponing what, I think, is pretty close to what we enacted and sent elsewhere in this body for consideration in LD 1932. I think it is very important that we do continue to work on this.

If we are to Indefinitely Postpone this measure at this point in time, we will not have the opportunity to add anything to it if it is missing things that are important to people here in this body. If we let it continue on its way, we can amend it to clarify language that, I personally think, is not as clear as it should be, concerning, for example, collective bargaining agreements. We could clarify it to add in language that I know someone is looking at regarding the municipal vote and the validation process. We could clarify it with respect to the doughnut hole piece. There are a number of things that we could do, and if we couldn't get those things on, we could still make a motion to Indefinitely Postpone the legislation at a later date. So, to me, I just feel our job is to solve problems. Yes, we have created some problems with the consolidation bill that many of us voted on and felt forced to vote on before it was finished, before it was done, before the problems that are addressed in this particular piece of legislation were addressed in that bill. But I don't think this is our last best chance, I think, to fix it and to fix it responsibly and to vote against Indefinite Postponement is not necessarily a vote to say I am supporting everything and anything in this. It is a vote that says I just want to throw up my hands about the whole process.

This particular bill is not a bill that was written on the second floor. There was another bill that was written on the second floor, this is not that bill. This is a bill that was written by members of this body, looking at what the second floor wanted and adding in things that were in 1932 that the Chief Executive didn't want in it. I personally am not entirely clear how much is not in this legislation that was in 1932, which we are now all looking at as the loadstar, the guiding light, so I guess I would pose a question through the Chair.

The SPEAKER: The Representative may pose her question.

Representative TREAT: Thank you, Mr. Speaker. I would actually find it very helpful in making this decision myself to know what measures were in 1932 that are not in this piece of legislation before us today. If somebody could answer that, that would be helpful to me to figure out where to go.

The SPEAKER: The Representative from Hallowell, Representative Treat has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gorham, Representative Farrington.

Representative FARRINGTON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In answer to the question, what was in the version of 1932 that this House enacted that is not in LD 2323, I believe, the elements were the Pratt Amendment and the MacDonald Amendment. Everything else that we adopted, I believe, is in this current legislation.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative MACDONALD: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the Indefinite Postponement and would like to echo the sentiments of the good Representatives from Falmouth and from Cumberland in saying that we need to get up on about our work, and would also like to attempt to answer Representative Edgcomb's question, what is in this that is different from what the Chief Executive vetoed. My answer to that question is this: As Representative Farrington just said, this bill is essentially 1932, the Majority Report from the Education Committee, instead of the Damon or MacDonald Amendment that was in there about school unions. It contains new language about school associations or administrative units, I have forgotten the exact wording here as I stand and talk, but there is another word, another term for the school unions that were in the Damon and MacDonald Amendments.

I think that this bill before us now represents a significant

victory for this House in moving the Executive a lot closer—a lot, lot closer—to the point of view that we had, which was contained in 1932, in the Majority Report, which had the financial fixes that we knew so many communities wanted for flexibility in the way they funded things, restoration of minimal receiver funding, and getting rid of the 2 mill requirement. But in addition, it has specific language in there which mirrors, in slightly different words, what we wanted around school unions.

Now the one significant area that I see of difference that makes it, I guess, more palatable to the second floor and that we should be thinking about is contained on page 14, I think it is item d. on page 14 of the new bill that we have before us, 2323, which does say that in operating these new associations that the association shall work towards consistent contract provisions as they move forward. They must develop a plan for consistent contract provisions. Now, what we wanted was that each community would be able to do its own contract negotiations and maintain its own labor relationships with its teachers, and that will still happen under this new form of organization, but that there will be a push towards, over time, having the contracts come more and more together. But all that is required in the law is a plan to do that, it does not require that the school unions do this. That is, for me, a compromise. It is not the same thing as what I wanted. I think it represents a meeting point between what we wanted, which was even more different, and what the Chief Executive found unacceptable, which he said was too much local control, too much independence. It has come together to a point where we are looking at a situation in which these unions will be asked to look at their contracts and put a plan together, over time, to bring them as close together as they possibly can. It is built on a real world model from Mount Desert Island, which has taken seven or eight years, my understanding is, to get them to a more harmonious relationship with their contracts. I believe it will work; I support this; I think we can declare substantial victory. Victory never looks like a total win, and I don't think that is the name of the game here. I think it is a compromise, but I think the House and the other body have significantly altered the Executive's view of this. And they have come forward to us now with a bill that I hope we can support, which would give our communities flexibility in going forward with their planning committees, to go either through the standard route that was envisioned under LD 499 towards a full-fledged RSU, or towards this association which is a looser form, which allows local school committees. Local budgets, property will be kept by local communities. These are the things I wanted. I was concerned about the loss of local participation, local governance in the running of our schools, and I believe that this preserves that and I think it deserves our full support, and I think it deserves it now before we go home for this year. If we go home without fixing this, then we will deserve to be the laughing stock of the state. I ask you to vote against Indefinite Postponement, and let's take the job on, on moving us forward in the state with these changes in 2323. Thank you, Mr. Speaker.

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Representative WOODBURY of Yarmouth assumed the Chair.

The House was called to order by the Speaker Pro Tem.

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The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative LEWIN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I normally don't have a whole lot to say here and I generally have to get a little

fired up to open my big mouth on the floor of the House, but I am a little wound up today and it is because, this bill before us, is a direct result of the Chief Executive having set policy in the budget, and having ran that budget through the House and the other body with the speed of light. We are paying a very heavy price for taking power from this body and the other body and putting it in the hands of the Chief Executive. We have forgotten our responsibility and we haven't stood up for our responsibility to perform, and as a direct result of that, we had been here for several months, in my view, wasting a colossal amount of time discussing something that wants scrapping just as badly as the Dirigo plan wants scrapping. We have wasted \$164 million on that. We went into this education thing expecting to save some money.

Well, I must say, I didn't vote for it, I didn't expect any savings, and in my view it was going to be a disaster, it is everything I thought it would be. I must say I can go home indefinitely postponing this without one little bead of sweat on my brow. It won't trouble me one bit to do that. And when I am at home, I am going to be a very busy girl this summer, not just moving and running for my seat again, I am going to be out collecting signatures to get this bloody thing repealed. In my view it is a disaster, it was a year ago; it is only getting worse as Dirigo gets worse by the day. LD 1, another one of my little favorites that I didn't vote for, it hasn't saved one of my constituents a dime, not a dime. How dare we do these things without reasonable, thoughtful consideration.

I would like to know why we weren't wise enough in this body, full of very intelligent people, to take two or three years to plan something realistic to do and another year or two to implement it. What a terrible, colossal mistake we made. I think Indefinite Postponement is the very best thing we can do and let the people have a voice. There will be a resounding recall of this policy, and I would hope that we would all learn from the mistakes we have made. Thank you so much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Farrington.

Representative FARRINGTON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Let me just start by correcting my previous answer to Representative Treat's question. I forgot about the Carter Amendment. That is also a difference between what we passed in 1932 and what is in this bill.

I want to very briefly respond to a few things that have been said. I am opposed to the pending motion to Indefinitely Postpone this bill, but I have agreed with a number of things I have heard from both sides of this issue. I hear the frustration expressed by my good friend from Sullivan, Representative Eaton. I don't like the fact that we are here on the very last day, hopefully, of session, again, dealing with school consolidation. I don't think anybody in this body would prefer this to be the time we try to come up with a product that we can pass. However, as a couple of folks have pointed out, including the Representative from Cumberland, this is not a brand new bill. Almost all of the language in this bill, we have had since January. It is LD 1932, as the Education Committee worked on it. I would, however, respectfully disagree with the good Representative in her characterization of what has happened since then, as a high jacking. I don't believe that the efforts of the members of this body to make additional changes to the school consolidation law were done with any sinister intent, and I certainly don't think that the 97 members of this body who voted for many of those changes in 1932 were guilty of a high jacking. Legitimate concerns were brought forward, serious attempts to make the law better, to provide more flexibility is what those efforts were about,

and I certainly do not fault or criticize the efforts of anybody who has participated in working on this. However, what we are left with today is what we can accomplish in this session.

Everything that is in 1932 was unanimously agreed to by the Education Committee, and the new language that 2323 brings forward is, as has been pointed out, quite similar in substance to what we adopted in this body in the form of the MacDonald Amendment. It does require consolidation of administration functions, but it does allow communities to retain their property, to retain their school committees; they don't have to absorb debt from other districts, all of the familiar barriers and objections that we have been looking at for a number of months now. It is not a model that is pulled out of thin air, as Representative MacDonald indicated; it is a model that has been in use and has worked extremely well in one particular school union in the state. So while I understand and share much of the frustration of being presented with something that appears to be new, at this very late hour, it is not completely unfamiliar territory. It is seeking to do what the committee sought to do from the very beginning and, in substance, what this body voted overwhelmingly to do quite recently. So I would urge you to vote against this Indefinite Postponement, move forward with this bill, and provide some of the flexibility and the tools that will help in many places. This doesn't solve everything for everybody and I don't think anybody is under the illusion that it does, but it certainly is an improvement and it is something that we have an obligation to do. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dennysville, Representative McFadden.

Representative MCFADDEN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As I see LD 2323, it is mainly crafted to fit one district, one former union or whatever you want to call it. It doesn't do anything, that I can see, for Washington County or most of Hancock County or Aroostook County. The big piece for me is local control, and after reading through this, I don't see anything where there is any local control for smaller towns, like in my district, in place. It is written very vague, it is hard to understand, it is hard to decipher. It is poorly written and ill conceived, and it gives the commissioner way, way too much power. That is what bothers me more than anything. There are too many "mays" in there, that she may approve this, she may deny this, so you need some of the "mays" taken out so that you have to go by the law, she can't do exactly what she wants to do. So she can dictate to this town and this town and do what she wants. But remember your constituents back home, remember your district. You need to vote according to your district, and I am sure most of you will. I am sure if you are in unions, you are going to vote for this Indefinite Postponement. We need to start this bill and craft it over again.

Another thing that bothers me considerably is this bill was brought through in the dark of the night, and it never went to the Education Committee, we never had a chance to look at it, we never had a chance to go through it. I realize that we did work on LD 1932 from last December all way through a week or two ago, and I think LD 1932, with the amendments on it, it did something for every town in the state, every area to every town in the state. Anyway, I think my point is I have heard them say we need to do something, we need to do something. But to me, doing nothing is better than doing something and doing it wrong. I don't know what happened. I see the vote is going to be much different. I don't know what happened to all the repeal votes; I see they are not going to go for Indefinite Postponement; I tell them what I am hearing from different Representatives around.

Now there is one more thing, there is one more leak in that beaver dam I have just found. The GPA, I have just learned

today that the GPA is going to be sent to the new RSUs in one check. Now I have one district that has 20 towns, and if the GPA check is going to the superintendent in one check and you have 20 towns, how is the superintendent going to figure out how much goes to each? You see, as we keep going on and we keep going through this, this reorganization thing, instead of starting back where we should, we are finding more and more leaks in that beaver dam. We are going to have to have more and more patches. I think we need to order a lot more patches and have them ready for the dam, the next year and year after and so forth. So I have to go along with Representative Schatz's Indefinite Postponement Amendment, and I hope that most of the lights in this Chamber will be green on the vote. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Somerville, Representative Miller.

Representative MILLER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to Indefinite Postponement. I am a member of the RPC in our area. Every Thursday night when we get out of here, I go to a meeting, every Thursday night I have been doing that for months. It is an SAD merging with two unions, and they are working in good faith and working hard. By the way, they are not choosing to go towards a super union, it is not a given that everybody wants to do that. But they need help with cost sharing issues, they need help with contracts, they need help with property issues, and every week they ask me how the fix is coming, have you fixed it yet. I go, not yet, not; oh yeah, we did but it got vetoed. Then they ask me how the next bills are coming, and I say not yet, not yet. I don't want to face them with no fixes. They are working hard to make this work, and I think we have got to make it work too.

The last thing I would like to say is there are some that suggest that many of us have been quiet and not getting up and talking about this issue, because our schools have done pretty well in the 281s. I have five towns, four of them did better in the past and one got creamed in the 281s. But I suggest that some of us don't stand up and talk because not everybody needs to hear from every one of us on every issue, but I felt on this issue I will stand up and talk, and I urge you to Indefinitely Postpone. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative FLETCHER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would ask us, Ladies and Gentlemen, just to give this the straight-faced test. Think about where we are; think about where we have been and where we are today. If this is such a perfect fix, why are we considering it on a day, in theory, we shouldn't even be here? If all of this had been worked out to such a great degree, why is it we didn't have this resolved in January? If we've got a perfect fix or something that is pretty close to being good, why are we here today? I have read the bill, I read the budget proposal, I have read all of the changes, but I do not see anything other than just some words to create another illusion.

I voted for the budget because I believed we could achieve savings through consolidation. That is a worthwhile objective and it is doable, but the key to achieving any objective is having a realistic plan that allows that to happen. We do not have a realistic plan, that is what we have found, and my concern is that is this 2323 a realistic plan to reduce costs while enhancing the quality of education, or is it simply a way to keep the consolidation titanic afloat a little bit longer so some more people can get in the life raft? I have yet to see the demonstration that has passed the straight-faced test and, equally important, has gone through a process of due diligence by people who have had

the time, the knowledge and the understanding to say I can give this the test of reasonableness.

We had something called LD 1932 as Amended, which a lot of people worked on. It had the scrutiny of many, and we debated and discussed it considerably, and that was passed with a very strong vote on both ends of the hall. I had confidence in that because it appeared to be comprehensive. Unfortunately, others did not view that to be acceptable. I never heard why, I never heard the rationale as to why a plan that was thoroughly examined and improved by many was not acceptable. Something here does not pass the straight-faced test. I am not going back to my town and my schools and tell them I have done my due diligence and can stand up in confidence and tell them this bill has been examined, scrutinized and challenged and improved. This is simply, in my view, a chance to keep the titanic afloat a little bit longer while a couple more can make it to the life rafts.

I would ask you all that if it is so important to do this, I think we have got one more shot at the basket. I don't think we can come back and say, well, we shot but we missed, but we will come back and try something else at the last minute. I don't that is right, I don't think that is right for the people in the State of Maine to be used as an experiment to try something again to see if it works. This is too important to shoot from the hip and hope we hit something. If it is worth doing, it is worth doing right. The school systems will survive for another six or nine months until the next Legislature can come back and start again and do it right. If we are here at the last minute, on a day that we are not even supposed to be here, with a piece of legislation that just appeared on the desk, without the opportunity of the Education Committee who are the subject matter experts to look at it, I have very low confidence that this is acceptable and more importantly is not the right process. So I would ask you to vote in favor of the motion before us and let us not use our school systems as another throw it against the wall and see if it sticks. You can do that cooking spaghetti, but you can't do it with our kids. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative FLOOD: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to speak for a moment about the bill before us. It has been talked about a little bit tonight about people not speaking up on this particular bill, and I wanted to make a point about that. I made the very conscience decision to stay quietly out of the way, frankly, during recent months, as people within this Chamber and the other body voiced their very legitimate and diverse concerns about previous bills of this nature. Although, I disagreed with their actions, sometimes in their tactics, I respected their rights to do what they had to do as the simple language; the straightforward language in LD 1932 was amended, re-amended and re-amended and re-amended. And I was disappointed in those tactics, but I kept that to myself. I respected the people with what they had to do; their view was different than mine. That is understandable; this is a big House with a lot of good leaders, many good opinions, many different local issues, and I think we have benefited very much from that honest debate and now we are back to a point of beginning. I would hope that we could use this as a time to move ahead.

Changes are especially hard when the course is not crystal clear that lies ahead of us, but I think change in this area is essential and I don't review it as change that is happening in the cloak of darkness or anything like that. There was a conscience effort to work within the committee structure, continuously and cautiously through this entire session. That is why I am a strong

supporter of this bill. I think it brings us back to a reasonable point of beginning, to correct certainly some financial flaws in the school funding, and I believe our job is too full, it is a statewide responsibility that we have and we have a local responsibility and I think we all feel a great deal of conflict with that. I don't think this is a time to necessarily criticize. Often, it is easy to lift one's self up by putting other people down. I don't think we need to do that. I think that very little good can come from that. I hope that we can accept this bill to make the necessary changes to allow us to go forward with the fixes, to allow the hardworking regional planning committees to complete their duties. I know this is a very difficult topic for everyone and I respect that and I enjoy the respectful dialogue that we have had here. I personally hope that you will oppose the Indefinite Postponement. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative SCHATZ: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. A few comments. One comment is that Representative Miller meant to say vote against the pending motion. Further, I wanted to say, as background, I have relied and I trust the judgment and the work of Representative Farrington and how he has been the Henry Kissinger, if you will, in this whole effort. I wanted to recognize that I respect his work and his opinion.

I think one of the problems happens to be pertaining to the money issue. As you might have heard, a number of those who are very supportive of this bill happen to be coming from districts who are receiving more money, a substantial amount as far as I am concerned, more funds than they did last year, even with the background of \$60 million in cuts to education. So this tells me that even though EPS is not tied into the consolidation legislation, it tells me there is a comfort level there and there is also a relationship. Those schools, who are feeling comfortable with the school consolidation, also are comfortable because their funding level is not being cut as substantially as some of our rural districts. Now that is another issue, which probably will be covered in the next Legislature, but don't be, I think, fooled into thinking that there is not a reason for that level of comfort and it does go back to follow the money.

Somebody asked the question concerning what is different with 2323, and if you go to that first page of 2323 and you see the language there that says that the state approved unit, if you have a state approved unit you can offer up a quasi municipal, and I understand they dropped the word quasi, a municipal corporation that is responsible for operating or constructing public schools. Now that is, I think, language that is supposed to replace school unions. I would point out that there are two elements that make it not a school union. One is that the fact is that the commissioner, the state has the discretion of approving that unit. So there is no guarantee that those of us, who have conceptualized a union based on what is operating now, would have that allowed. I think if you then go through the various pages of this 2323, you will see where the discretion of the administration, the discretion of the Department of Education is dominant. I think given the past experience with this school consolidation effort last year, nine months ago, I think that that discretion has not served us very well and I don't think we need to feel comfortable with that, and I think one way of dealing with that lack of comfort is to Indefinitely Postpone this and go back to our districts and work with our constituents to come up with a more productive approach, whether it be school consolidation or delivering services to our students, that is what we really are all about. So again, I would reinforce the need. There is a little bit of bait and switch that came into this process, but I would say that it would be prudent to

go forward and vote for the Indefinite Postponement. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Makas.

Representative MAKAS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I serve on the Education Committee and, as several have said before me, our Education Committee has been working on this issue for a very, very long time. We had many different opinions within our own committee. The one thing that I believe we all agreed on was that the school consolidation plan, as originally formulated, did not come down off the mountain on stone tablets, which is why we worked so hard on it to try to correct some of the flaws that were in it. We put a lot of time into trying to make this a workable law, but more important than our efforts was the fact that there are people in schools districts throughout the state who have invested huge amounts of time, energy, and money to implement the law that we passed last year. These people are waiting for our guidance, they are trying to avoid penalties, they want to know the next step. This LD is not perfect from anyone's point of view, but it is very, very important that we do something. It is an improvement, it is needed, it is substantially similar to 1932, which was passed overwhelmingly in this body recently. I urge you, whether you agree or not with the original school consolidation plan, please vote against Indefinite Postponement. We owe it to the people who are out in the school districts throughout the state, to give them the information they need to move their efforts forward. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Edgecomb.

Representative EDGECOMB: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just two items.

First, I have received information today that at a meeting of 20 superintendents in central Maine, they voted unanimously to oppose 2323.

Secondly, I ask you a question: Are you prepared to attend an RPC meeting and explain your position on 2323 to that committee? Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Falmouth, Representative Savage.

Representative SAVAGE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I questioned in the beginning on this, in our case, Falmouth, the high performing school district formula. I never thought it was very well thought out. I have seen little or no evidence showing any real savings here, and I understand we have to give this a certain amount of time. To be honest with you, I have bounced back and forth like a yoyo trying to make this decision. Even today, I have bounced back and forth like a yoyo. But I think we need to go ahead and do something, so I would say that we need to go ahead and give this a try. If this does not work, I will be the first one to come back on the other side of the coin. Therefore, I will be voting against the Indefinite Postponement. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Harlow.

Representative HARLOW: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have been saying that the Executive on the second floor wrote this bill. Nothing could be further from the truth. LD 1932 was written and 2323, as a combination of the legislators that came before our committee with their 120 suggestions, and the stakeholders that came, as the good Representative from Lewiston said, Representative Makas. Of course the superintendents voted against 2323. They are worried about their jobs and that is one

of the places we are going to save money. This kind of reminds me of I am not NIMBY unless it is in my backyard.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 446**

YEA - Annis, Austin, Ayotte, Browne W, Canavan, Cebra, Chase, Clark, Cleary, Cotta, Cray, Crosthwaite, Curtis, Eaton, Edgecomb, Finley, Fisher, Fitts, Fletcher, Gifford, Hamper, Hill, Johnson, Joy, Lewin, Lundeen, Marean, McFadden, McKane, McLeod, Muse, Pendleton, Pinkham, Pratt, Prescott, Richardson W, Rosen, Sarty, Schatz, Sutherland, Sykes, Theriault, Thibodeau, Thomas, Trinward, Vaughan, Weaver.

NAY - Adams, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Blanchard, Bliss, Brautigam, Bryant, Burns, Cain, Campbell, Carey, Carter, Casavant, Connor, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Eberle, Faircloth, Farrington, Finch, Flood, Gerzofsky, Giles, Gould, Grose, Hanley S, Harlow, Haskell, Hayes, Hinck, Hogan, Jackson, Jones, Kaenrath, Knight, Koffman, Lansley, MacDonald, Makas, Marley, Mazurek, McDonough, Miller, Millett, Mills, Nass, Norton, Percy, Pery, Pieh, Pilon, Pingree, Piotti, Plummer, Priest, Rand, Rector, Rines, Samson, Savage, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Tardy, Treat, Tuttle, Valentino, Wagner, Walker, Watson, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Berube, Blanchette, Boland, Briggs, Conover, Duprey, Emery, Fischer, Greeley, Jacobsen, Miramant, Moore, Patrick, Peoples, Pineau, Richardson D, Robinson, Saviello, Tibbetts.

Yes, 47; No, 85; Absent, 19; Excused, 0.

47 having voted in the affirmative and 85 voted in the negative, with 19 being absent, and accordingly the motion to INDEFINITELY POSTPONE the Bill and all accompanying papers FAILED.

Subsequently, under suspension of the rules, the Bill was given its FIRST READING WITHOUT REFERENCE to a committee.

Under further suspension of the rules, the Bill was given its SECOND READING WITHOUT REFERENCE to the Committee on Bills in the Second Reading.

On motion of Representative PINGREE of North Haven, TABLED pending PASSAGE TO BE ENGROSSED and later today assigned.

The following items were taken up out of order by unanimous consent:

**ENACTORS**

**Resolves**

Resolve, To Study the Feasibility of Locating a Border Crossing in the St. David Area

(H.P. 394) (L.D. 511)

(S. "A" S-655 to C. "B" H-643)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed, FINALLY PASSED, signed by the Speaker and sent to the Senate.

**Non-Concurrent Matter**

Bill "An Act To Allow Direct-to-consumer Wine Sales"

(S.P. 781) (L.D. 1987)

**FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-575)** in the House on April 17, 2008.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-575)** in **NON-CONCURRENCE**.

On motion of Representative **TRINWARD** of Waterville, the House voted to **RECEDE**.

The same Representative moved that the House **RECONSIDER** its action whereby House Amendment "**B**" (**H-1032**) to Committee Amendment "**A**" (**S-575**) was **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative **Trinward**.

Representative **TRINWARD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I present my amendment to the direct to consumer wine sale to speak to the issue of a landmark decision by the Supreme Court, where the State of Maine was involved and the US Federal Court of Appeals held that Maine was sued by an out of state winery, Cherry Hill Vineyard. The Cherry Hill's wine case, Maine regulatory structure regarding a shipment of wine, was upheld in the Court of Appeals because it supported our state's law applied evenly to all. If this law applies evenly to all, there is a constitutional challenge possible if we treat wine differently from other alcoholic beverages. We need to be fair and evenhanded through this bill, and that is the reason that I am presenting my amendment.

Subsequently, the same Representative **WITHDREW** her motion to **RECONSIDER** whereby House Amendment "**B**" (**H-1032**) to Committee Amendment "**A**" (**S-575**) was **INDEFINITELY POSTPONED**.

Subsequently, the same Representative **WITHDREW** her motion to **RECEDE**.

Representative **PINGREE** of North Haven moved that the House **INSIST**.

On further motion of the same Representative, **TABLED** pending her motion to **INSIST** and later today assigned.

**Non-Concurrent Matter**

Bill "An Act To Restore Positions in the Office of Program Evaluation and Government Accountability" (**EMERGENCY**)

(H.P. 1667) (L.D. 2307)

**PASSED TO BE ENGROSSED** in the House on April 8, 2008.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "D" (S-639) AND "F" (S-659)** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Remove Barriers to the Reorganization of School Administrative Units" (**EMERGENCY**)

(S.P. 931) (L.D. 2323)

Which was **TABLED** by Representative **PINGREE** of North Haven pending **PASSAGE TO BE ENGROSSED**.

Representative **SILSBY** of Augusta **PRESENTED** House Amendment "**A**" (**H-1028**), which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative **Silbsby**.

Representative **SILSBY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I propose House Amendment "**A**" to LD 2323 and I would like to tell you why. I have had the great pleasure of serving on the Augusta School Board for the last eight years, and have gone through either different budget adoption processes through that experience. I feel so fortunate, as many of you I am sure do, to have local leaders who I trust on the planning board, city council, zoning board and on a school board. I rise today to present this amendment because I believe we should honor the work of these local leaders.

In LD 499, we wrote into law that all municipalities must adopt their school budgets in a school budget validation referendum. This seems innocent enough on the surface, but it ignores that many cities and towns in our state have created and voted on charters that serve as a framework the governance of their city or town. Many of these charters identify how a city or town will adopt their school budget. Our school consolidation legislation in LD 499, prescribed away of adopting a budget that directly contradicts many of the local charters in cities and towns throughout our great state. I rise to present this amendment because I think it is wrong that we tell these municipal charter commissions and these cities and towns that they must, in essence, ignore their charter and adopt a budget in a way that the state mandates. Our country was designed on a representative government to support the efficient and educated means of doing the business of running our countries, our cities and our towns. I believe that by asking our citizens to vote on every school budget, every year, we are eroding our representative government.

I would like to take a minute to just tell you how the Augusta school adopts their budget, because I think all of us kind of do it in a variety of different ways, but our charter describes a method in which we adopt our budget. First, we gather input from teachers and administrators, who then give it to the superintendent who presents a budget. The school board thoroughly examines that budget in a series of workshops. After lengthy public hearings, the school boards vote on that budget and send it to the city council. The City Council then thoroughly examines the budget, and either accepts it or asks the school boards to make some changes. The council then holds another public hearing; the city council then votes to approve or not approve the budget. Throughout this entire process, citizens have ample opportunity to examine their school budget and make recommendations and express their concerns, again, at two public hearings and at any point during the process, they can also contact their elected official. These charter commissions, people who adopt, who set forth what this charter will look like for these cities and towns, spend hours and hours creating a charter to govern their city or town. Citizens who are charged with adopting this charter worked tirelessly to review and address every aspect of a city or town's governance. I believe that our state should honor that process of local process and independence.

I have heard many people say that the referendum process will hold the citizens accountable for their local taxes. The supporters of this referendum process say that they are tired of people not seeing the connections between their taxes and spending on education. But I ask you, when is it going to end? People are tired of paying taxes at the county level, so why not put that budget up for adoption or through a referendum process? People are certainly tired of income and sales tax. Should we not put the state budget up for referendum? I ask you, when does it

end? We have a representative government where we can elect people who thoroughly examine, in detail, the budgets and act on our behalf and the best interests of the people of our great state. I think we need to honor that. I urge you to support House Amendment "A," and I thank you for your attention.

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Representative PIOTTI of Unity assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

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Representative PINGREE of North Haven moved that House Amendment "A" (H-1028) be **INDEFINITELY POSTPONED**.

The SPEAKER PRO TEM: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am certainly very sympathetic to the good Representative from Augusta and her position. Just to clarify what this amendment does is it would allow districts with municipal charters to not have to do a municipal budget referendum. I am not an expert certainly on what towns and cities in the State of Maine has municipal charters and which ones don't, but I can tell you that if your town has a town meeting form of government, you probably don't have a municipal charter. All the towns I represent, 10 of them, hold town meetings every year and under the law that we passed last year, we have to hold a budget referendum on our school budget sometime this year, probably in June for most towns. So what this amendment would do is exempt the big cities that have charters from the budget referendum requirements, but leave the rest of the towns in the State of Maine having to do it.

I have some real concerns about the very things that the good Representative brought up, what the budget referendum process means for representative democracy, what this process is going to mean overall for our state, but at this point we are all in it. I think that if you are going to take out the budget referendum requirement, you have to take it out for every town, small town and big city in the State of Maine. I think that is a much larger discussion. Clearly there are some charter concerns that some of the bug cities have; I share their concerns but I just don't think this is an appropriate way to go about it. Thank you, Mr. Speaker. When the vote is taken, I request a roll call.

Representative PINGREE of North Haven **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** House Amendment "A" (H-1028).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Farrington.

Representative FARRINGTON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise to speak on this issue as somebody who supported the substance of what this amendment would do in the Education Committee. This was part of one of the bucket bills, 2281, the bill that ultimately became amended to be the vehicle for repeal.

I agree with the sentiments expressed by the Representative from Augusta. I, too, represent a charter community. It is not a big city, but the Town of Gorham is a charter community. I don't believe, I never have believed that our budget adoption process is broken and, as Representative Silsby has shown a great deal of commitment on this issue together with the Representative from Portland, Representative Harlow on the committee, I don't disagree with the notion that requiring budget validation referendum is perhaps an unnecessary step for charter communities. However, I will very reluctantly be supporting the

Indefinite Postponement of this amendment for one reason only and that is to if we were to add this amendment to the bill before us and send it to the other body, to follow our action, I have great concerns about what would happen in the next step of the process. In order to preserve the work that has gone into 2323, I will, as I said, reluctantly be voting in opposition, in support of the Indefinite Postponement. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Harlow.

Representative HARLOW: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have fallen on my sword for this issue. My city, it is not a city issue. Portland is going to be doing a referendum in May. I don't think it is reasonable, I don't think it is the right thing that they should be doing. Pennsylvania looked into this thing, this whole idea of a referendum. I did a lot of research on this, and they found it didn't save a nickel and it actually cost school districts money. I am going to vote in opposition to the Postponement, because I think this is very good for the charter communities, which have an elaborate system of getting their budgets through. The reason we have to have a referendum for some of the smaller communities that have combinations of many different schools is so that every community will have a say on what they are going to be spending in their budgets. So it isn't just a major unit going to make the budget for the smaller units, this way it gives everybody a say.

I agree with the good Representative Silsby from Augusta, but I go a little bit further. She said the same thing: Let's bring the whole state budget to referendum if it is going to save us a lot of money. There is no evidence of that at all. As a matter of fact, I think there is more evidence that it will cost us money, so I will vote against the Postponement, I can see why people would say, well why doesn't everybody have to do it? The reason I say it is charter communities that shouldn't have to do it, it will save \$800,000 over the year, out of the education budget, if charter communities don't have to do this. Portland is going to be spending \$40,000 out of the education budget for the referendum this May. Thank you very much, Mr. Speaker and Ladies and Gentlemen. I hope you will vote for Postponement.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Not all big communities have charters. Again, I have three unions coming together. Two of those communities are charter communities. However, I think that if they were pulled out separate from the other members of that union that there really would be some difficulty, they would be treated differently, and I do believe that the populous in that committee would feel very much left out. The referendum is not just to save money, it is allowing every citizen to have a say on the school budget. As the communities get bigger and you have fewer people doing that and you see the communities around you with a referendum process, I think that would be more of a problem. So I will be voting for Indefinite Postponement.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Samson.

Representative SAMSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just rise to respond to that comment. Cities with charters have an elaborate system with lots of public involvement; it would be just a different format. Those of us that were in favor of this original bucket bill idea did not get the opportunity to vote on that because it was used for a vehicle for something else. I will be supporting this motion and being against the Indefinite Postponement, and I urge

you to consider it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Makas.

Representative MAKAS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I urge you to vote against Indefinite Postponement of this amendment. Lewiston has already set its referendum, so even though we are a charter municipality, this is not directly affecting us at the moment.

I would like to mention, first of all in response to an earlier comment, this amendment does not require municipalities with a charter not to have a budget referendum. They can certainly do so if they wish to. But, to me, I believe that we have made accommodations for municipalities that vary in terms of size and composition elsewhere in legislation we have passed associated with school consolidation, and I ask that this accommodation also be made for those us who are from charter municipalities that choose not to have the referendum. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative BERRY: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative BERRY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. To anyone able to answer, I just need to understand better in order to make up my own mind on this. As I understand, currently, in budget validation, the referendum process includes, if the total school budget exceeds the LD 1 spending caps, it includes a special section allowing the public to vote on whether to exceed the spending cap, and specifically designates how much the excessive spend is. I would just like to know how the public would have input into that particular dimension of the budget under the amendment that is currently being proposed.

The SPEAKER PRO TEM: The Representative from Bowdoinham, Representative Berry has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Silsby.

Representative SILSBY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to answer the question from the good Representative from Bowdoinham. I just want to say that they would have input during the regular public hearing process. There are two opportunities, again, in my city, for residents to come forward and express their concerns about exceeding those caps, what would happen at a normal process in the city council or town council, so they would have ample opportunity to be able to do that.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Harlow.

Representative HARLOW: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. You have this mixed up a little bit with the "bucket b" bill. The 5 percent over EPS, that is the option of it, that is "bucket b". This bill has no EPS involved in it at all.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Weaver.

Representative WEAVER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. York has a charter and we have had it for a long time. I was eight years on the budget committee, four years as chair. We will vote on up to 32 or 33 articles on the school budget. If they have to hire a new teacher, the voters have to approve it. That is how detailed we get. If they buy a truck, the voters have to approve it. That is how we do it, so basically, we had a referendum by our charter all

along, and if they override, they have an option, there is an article allowing the voters to vote to override. That is how that works. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Orono, Representative Cain.

Representative CAIN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the pending motion with a little additional information. I understand the budget validation referenda is new for most of the State of Maine. I also come from a charter municipality. In fact, I believe we were originally chartered by the State of Massachusetts, but we don't like to talk about that; we have put that behind us and moved on to the State of Maine, proudly, in Orono.

Budget validation referenda is new. Some towns in Maine have tried it. The ones that have tried it seem to like it so far. As this law was originally built, it seemed to be one of those things that was new for everyone and has the potential to be used as a tool for understanding where our dollars are going and to breaking down any barriers to transparency at the local level. But really, the most important thing that I want to add to this debate is just the point of information that the law says that after three years, the third time you go to budget validation referenda, the voters in every town that does the BVR and that will be all towns in Maine, at the bottom of that ballot will also be asked the question do you wish to continue the budget validation referenda process. That was an intentional move on the part of this body, this Legislature last year, I believe, to acknowledge that budget validation referenda was new and everyone should start off on the same page, and then after that three year period, individual communities would be able to make that choice as to whether or not they will or will not proceed with budget validation referenda. So I do rise in support of this motion, and I do look forward to three years from now when we see which communities have said enough is enough, this is not a worthwhile process for us. They will have that opportunity and, who knows, mine might even be one of them. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Silsby.

Representative SILSBY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to add, again, that I think what has been interesting to me through the process is we have had this elaborate and lengthy conversation about the federal mandates from Real ID. We have had so many expressions of concern that the Federal Government is telling our state what to do and that so much frustration has been stated with that process. It seems to me that we are kind of doing the same thing. These cities and towns have worked diligently to put forth a way in which they want to govern themselves. I watched my city's charter commission go through the process of adopting a charter, unbelievable testimony on every single line on what they want to do for their governance of their city. We are basically saying we don't care that you have spent hours and hours and hours on how you want to adopt a budget, we know best. I can't help but think it is kind of interesting that we can stand up and say no, no, we don't want the Federal Government to do that, but we can do that as a state and say that we think the referendum is the only way to be able to move forward on this. I think we need to respect our cities and towns. I am asking for some understanding that if a city-chartered town charter decides that they want to move forward and adopt their budget in this capacity, I think they should be respected. Thank you very much, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Not to belabor this point at this hour on maybe the now second to last day of the legislative session, but I did just want to, again, repeat: I understand the concern about budget validation. This legislative body made the decision to put budget validation for all school districts into the law. I respect that charter communities have worked very hard, I truly do, but you have to know that the very small towns that have a town meeting for government have also worked very hard. I have the same superintendents in these small towns who are worried about whether or not the school budget is going to pass this year, they are very worried, just like some of the big cities are worried. But honestly, to repeal budget validation for towns that have charters but not the other towns that don't seems to me like a double standard. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Harlow. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative HARLOW: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There is a little difference between the small towns and Portland: We are talking about a \$90 million budget which is a little bit more confusing, and I am worried about what we are going to do when somebody looks at a \$90 million budget with ten budget issues that we can look at. That is \$90 million. That is more than each one of us is responsible for in education here, per capita. I am worried about the confusion that will come and what it will do to education.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-1028). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 448

YEA - Austin, Ayotte, Babbidge, Beaudoin, Beaulieu, Berry, Blanchard, Blanchette, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Cain, Campbell, Carey, Cebra, Chase, Clark, Cotta, Craven, Cray, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Dunn, Eberle, Edgecomb, Faircloth, Farrington, Finch, Finley, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Grose, Hamper, Hayes, Hinck, Hogan, Jackson, Jones, Kaenrath, Koffman, Lansley, Lewin, Lundeen, MacDonald, Marean, Marley, Mazurek, McDonough, McFadden, McKane, McLeod, Miller, Millett, Mills, Nass, Pendleton, Percy, Perry, Pieh, Pilon, Pingree, Pinkham, Piotti, Plummer, Prescott, Rand, Rector, Richardson W, Rines, Rosen, Sarty, Savage, Schatz, Simpson, Sirois, Smith N, Strang Burgess, Sykes, Tardy, Theriault, Thomas, Valentino, Vaughan, Watson, Webster, Weddell, Woodbury, Mr. Speaker.

NAY - Adams, Annis, Barstow, Beaudette, Burns, Canavan, Carter, Casavant, Cleary, Connor, Crockett, Eaton, Hanley S, Harlow, Haskell, Hill, Johnson, Joy, Knight, Makas, Muse, Norton, Pratt, Priest, Samson, Silsby, Sutherland, Treat, Trinward, Tuttle, Wagner, Weaver, Wheeler.

ABSENT - Berube, Conover, Duprey, Emery, Fischer, Greeley, Jacobsen, Miramant, Moore, Patrick, Peoples, Pineau, Richardson D, Robinson, Saviello, Thibodeau, Tibbetts, Walker.

Yes, 100; No, 33; Absent, 18; Excused, 0.

100 having voted in the affirmative and 33 voted in the negative, with 18 being absent, and accordingly House Amendment "A" (H-1028) was INDEFINITELY POSTPONED.

Representative JOHNSON of Greenville PRESENTED House Amendment "B" (H-1029), which was READ by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative JOHNSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment provides an exception to the minimum regional school unit size for School Union 60 and School Administrative District #12, to allow them to submit a plan for reorganization as a school unit, due to their geographic isolation and low population density of northern Piscataquis and Somerset Counties.

Mr. Speaker, this has been a discussion for a long time. There have been amendments submitted that didn't make it out of the Education Committee. Most people that I have talked to agree that this is a good thing to do. The communities involved in those two SADs had a state grant to study consolidation, prior to initiation of this law. They were well on their way and had identified savings of \$300,000. At this point in time, the communities are planning, because of the rules of the current law, with communities that don't make any sense at all for them consolidate with and have shown no savings. So this will allow what reasonable people believe this is the best alternative for these two school districts. The population of the two school districts is approximately 550 students. Thank you, Mr. Speaker.

Representative PINGREE of North Haven moved that House Amendment "B" (H-1029) be INDEFINITELY POSTPONED.

The SPEAKER PRO TEM: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I think the good Representative from Greenville makes some very good points about the concerns of his district. I certainly hope that at some point we are able to address those concerns. I think that private and special laws, the next legislative session, may be where we end up going for many rural districts around the state that have trouble complying with this law. But at this point, I believe to give one private and special to one small part of the state will set a very difficult path for the rest of this law. I think there are towns in my district that would like a private and special, certainly towns in Aroostook County that would like a private and special. There is probably some town in your district that would like a private and special. But at this point, to allow this amendment to be attached to this bill, I think, sets us on a path that is a dangerous one. Thank you, Mr. Speaker. When the vote is taken, I request a roll call.

Representative PINGREE of North Haven REQUESTED a roll call on the motion to INDEFINITELY POSTPONE House Amendment "B" (H-1029).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-1029). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 449

YEA - Adams, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Blanchard, Blanchette, Bliss, Boland, Brautigam, Briggs, Bryant, Cain, Canavan, Carey, Casavant, Cleary, Connor, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Eberle, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Grose, Hanley S, Harlow, Haskell, Hayes, Hinck, Hogan, Jackson, Jones, Kaenrath, Koffman, MacDonald, Makas, Marley, Mazurek, McDonough, Miller, Millett, Mills, Norton, Pendleton, Perry, Pieh, Pilon, Pingree, Piotti, Plummer, Priest, Rand, Rector, Richardson W, Rines, Rosen, Samson, Savage, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Theriault, Treat, Trinward,

LEGISLATIVE RECORD - HOUSE, April 17, 2008

Tuttle, Valentino, Wagner, Watson, Webster, Weddell, Wheeler, Woodbury.

NAY - Annis, Austin, Ayotte, Babbidge, Browne W, Burns, Campbell, Carter, Cebra, Chase, Clark, Cotta, Cray, Crosthwaite, Curtis, Eaton, Edgecomb, Finley, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Hamper, Hill, Johnson, Joy, Knight, Lansley, Lewin, Lundeen, Marean, McFadden, McKane, McLeod, Muse, Nass, Pinkham, Pratt, Prescott, Sarty, Schatz, Sutherland, Sykes, Tardy, Thibodeau, Thomas, Vaughan, Walker, Weaver.

ABSENT - Berube, Conover, Duprey, Emery, Fischer, Greeley, Jacobsen, Miramant, Moore, Patrick, Peoples, Percy, Pineau, Richardson D, Robinson, Saviello, Tibbetts, Mr. Speaker.

Yes, 82; No, 51; Absent, 18; Excused, 0.

82 having voted in the affirmative and 51 voted in the negative, with 18 being absent, and accordingly House Amendment "B" (H-1029) was INDEFINITELY POSTPONED.

Representative JOHNSON of Greenville PRESENTED House Amendment "C" (H-1030), which was READ by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative JOHNSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Some folks didn't like the idea of a private and special, so let's broaden this. This amendment adds certain geographical isolated inland communities to the list that may serve fewer than 1,200 students under the law governing regional units. Basically, this takes the same amendment that I asked for before and applies it to any region in the State of Maine that is an isolated condition, having communities with schools located more than 25 miles apart. Thank you, Mr. Speaker.

Representative PINGREE of North Haven moved that House Amendment "C" (H-1030) be INDEFINITELY POSTPONED.

The same Representative REQUESTED a roll call on the motion to INDEFINITELY POSTPONE House Amendment "C" (H-1030).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative THOMAS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am confused. We are talking about special laws for special people that can't be proposed by a Representative from his district, but the Executive Branch can have people running all over this building offering special deals to add up votes to get what they want. Now why is it that we can't have rules or amendments changed so that small school districts can comply with this law, within reason, but the Executive Branch can make every deal they want to? I don't understand; I am confused. Can someone please explain it to me?

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-1030). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 450

YEA - Adams, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Blanchard, Blanchette, Bliss, Boland, Brautigam, Briggs, Bryant, Cain, Campbell, Carey, Casavant, Cleary, Connor, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Grose, Hanley S, Harlow, Haskell, Hayes, Hinck, Hogan, Jones, Kaenrath, Koffman, MacDonald, Makas, Marley, Mazurek, McDonough, Miller, Mills, Norton, Pendleton, Percy, Perry, Pieh, Pilon, Pingree, Piotti, Priest, Rand, Samson, Silsby, Simpson, Sirois,

Smith N, Treat, Trinward, Tuttle, Valentino, Wagner, Watson, Webster, Weddell, Wheeler, Woodbury.

NAY - Annis, Austin, Ayotte, Babbidge, Browne W, Burns, Canavan, Carter, Cebra, Chase, Clark, Cotta, Cray, Crosthwaite, Curtis, Eaton, Edgecomb, Finley, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Hamper, Hill, Jackson, Johnson, Joy, Knight, Lansley, Lewin, Lundeen, Marean, McFadden, McKane, McLeod, Millett, Muse, Nass, Pinkham, Plummer, Pratt, Prescott, Rector, Richardson W, Rines, Rosen, Savage, Schatz, Strang Burgess, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Vaughan, Walker, Weaver.

ABSENT - Berube, Conover, Duprey, Eberle, Emery, Greeley, Jacobsen, Miramant, Moore, Patrick, Peoples, Pineau, Richardson D, Robinson, Sarty, Saviello, Tibbetts, Mr. Speaker.

Yes, 73; No, 60; Absent, 18; Excused, 0.

73 having voted in the affirmative and 60 voted in the negative, with 18 being absent, and accordingly House Amendment "C" (H-1030) was INDEFINITELY POSTPONED.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

On motion of Representative PINGREE of North Haven, TABLED pending PASSAGE TO BE ENGROSSED and later today assigned.

By unanimous consent, all matters having been acted upon were ORDERED SENT FORTHWITH.

The following items were taken up out of order by unanimous consent:

COMMUNICATIONS

The Following Communication: (H.C. 528)

STATE OF MAINE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY

April 16, 2008

The Honorable Beth Edmonds, President of the Senate  
The Honorable Glenn Cummings, Speaker of the House  
123rd Maine Legislature  
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

We are pleased to report that all business which was placed before the Joint Standing Committee on Agriculture, Conservation and Forestry during the Second Regular and First Special Sessions of the 123rd Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	24
Unanimous Reports	20
Ought to Pass	2
Ought to Pass as Amended	13
Ought Not to Pass	4
Referred to Another Committee	1
Divided Reports	2
Committee Bills & Papers	2
Pursuant to Statute	1
Pursuant to Resolve	1
Gubernatorial Nominations	6

Representative THOMAS: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative THOMAS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't understand this. Because if I understand this amendment correctly, we are binding future Legislatures in the way that we fund the State Police from the Highway Fund and the General Fund that I didn't think we were allowed to do. Also, we are going to borrow money on that assumption, and I am just wondering how that all works, Mr. Speaker.

The SPEAKER: The Representative from Ripley, Representative Thomas has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Marley.

Representative MARLEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Currently, we bind future Legislatures to the 60:40 ratio that is in place for the State Police funding—60 percent Highway Fund, I alluded to this earlier as well, 40 percent General Fund. In 1790, there was legislative intent language in there that said that this body's intent—and we are now acting on that intent—was to go to, what we felt was, a more appropriate 51 percent General Fund, 49 percent Highway Fund. I hope that addresses the first part of the answer.

I think as far as funding mechanism, that given the history of the funding for the General Fund, the Highway Fund, that it is a pretty good revenue stream to build this product on. I think that the policy piece that we really want to focus on is truly the road needs. We can argue over the philosophy versus the need, and I truly believe the need wins every time. Every one of your constituents will see dramatic improvements in the roads from this point forward. Actually, I have one legislator and I appreciate him saying it, saying in the last week, we have probably done more for roads and bridges for the State of Maine than we have done in the last few years that I have served on this committee. I know I am term limited, I won't be able to see these projects through fruition, but I truly believe what we are doing here tonight is going to make dramatic improvements in our state's highway, safety and our economy. Thank you.

House Amendment "A" (H-1040) was ADOPTED.

Subsequently, the Bill was PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1040) in NON-CONCURRENCE and sent for concurrence.

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By unanimous consent, all matters having been acted upon were ORDERED SENT FORTHWITH.

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The Chair laid before the House the following item which was TABLED earlier in today's session:

Bill "An Act To Remove Barriers to the Reorganization of School Administrative Units" (EMERGENCY)

(S.P. 931) (L.D. 2323)

Which was TABLED by Representative PINGREE of North Haven pending PASSAGE TO BE ENGROSSED.

Representative FARRINGTON of Gorham PRESENTED House Amendment "G" (H-1041), which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Farrington.

Representative FARRINGTON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This amendment does two things: The first is it removes the Emergency Preamble from

LD 2323, and second and more substantively, it adds language that this body has already approved. The entire text of House Amendment "G" is the text of LD 2280, which this body passed, also known as "bucket bill a" from the Education Committee, it passed here; it has become stalled in the other body, but its legislation that includes some absolutely essential changes to the school consolidation law. These are important to get in place for all districts, not just those districts that are reorganizing.

This is, I think, familiar ground because we have already acted on it. But just as a reminder to folks, what was in that bill and what is in this amendment: It adds additional times for districts; it extends the deadline for voting on proposed consolidations until the end of January '09; it makes numerous improvements to the budget validation process; it clears up some things that were unclear in the law; it extends some of the timelines for absentee voting and so on. It includes some necessary language on debt service for career and technical education centers that was left out of the original bill; it replaces one of the penalties for districts that vote against consolidation; it replaces a confusing and difficult to calculate penalty with one that is much more clear and easily calculated. Finally, it directs the Department of Education to come to the next Legislature, the 124th in December of this year with recommendations for legislation to address districts that have done due diligence, have done everything that they could to consolidate and comply with the law but have not been able to reach a 1,200 student minimum. So that is a very important provision, particularly given a number of the amendments that we have looked at this evening. For all of those reasons, this is an act that we have already endorsed as a body, it is essential, again, to everybody, whether reorganizing or not. I would encourage all of you to vote in favor of adding this amendment. Thank you, Mr. Speaker.

Subsequently, House Amendment "G" (H-1041) was ADOPTED.

Representative CLARK of Millinocket PRESENTED House Amendment "F" (H-1039), which was READ by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I offer this friendly amendment as a compromise, somewhat, to all the difficulties we have had in the last year or so, of this, what I call a runaway train that is speeding down the road and nobody wants to put the brakes on.

I think a lot of us have had a lot of influence back home on how these meetings have been going on and nobody seems to have the answers. I have been to a number of meetings; even the facilitator didn't have the answers to some of the questions being asked. I still think this is a runaway train, I think we need to put the brakes on and slow it down, and I think this is really a friendly amendment to all of us to give us some time to deal with. Mr. Speaker, I offer this amendment. Thank you very much.

Representative PINGREE of North Haven moved that House Amendment "F" (H-1039) be INDEFINITELY POSTPONED.

Representative CLARK of Millinocket REQUESTED a roll call on the motion to INDEFINITELY POSTPONE House Amendment "F" (H-1039).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "F" (H-1039). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 451**

YEA - Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Blanchette, Bliss, Boland, Brautigam, Briggs, Bryant, Cain, Carey, Casavant, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Eberle, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Grose, Hanley S, Harlow, Haskell, Hayes, Hinck, Jackson, Jones, Kaenrath, Knight, Koffman, Lansley, MacDonald, Makas, Marley, Mazurek, McDonough, McKane, Miller, Millett, Mills, Nass, Norton, Patrick, Pendleton, Percy, Pieh, Pilon, Pingree, Piotti, Plummer, Prescott, Priest, Rand, Rector, Rines, Samson, Simpson, Sirois, Smith N, Strang Burgess, Treat, Tuttle, Valentino, Wagner, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Adams, Annis, Austin, Ayotte, Babbidge, Browne W, Burns, Campbell, Canavan, Carter, Cebra, Chase, Clark, Cleary, Connor, Cotta, Cray, Crosthwaite, Curtis, Eaton, Edgcomb, Finley, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Hamper, Hill, Hogan, Johnson, Joy, Lewin, Lundeen, Marean, McFadden, McLeod, Perry, Pinkham, Pratt, Richardson D, Richardson W, Robinson, Rosen, Sarty, Savage, Saviello, Schatz, Silsby, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Trinward, Vaughan, Walker, Weaver.

ABSENT - Berube, Blanchard, Conover, Duprey, Emery, Greeley, Jacobsen, Miramant, Moore, Muse, Peoples, Pineau, Tibbetts, Weddell.

Yes, 77; No, 60; Absent, 14; Excused, 0.

77 having voted in the affirmative and 60 voted in the negative, with 14 being absent, and accordingly House Amendment "F" (H-1039) was **INDEFINITELY POSTPONED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "G" (H-1041) in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

The following items were taken up out of order by unanimous consent:

**ENACTORS**

**Emergency Measure**

An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services

(H.P. 1466) (L.D. 2080)

(S. "A" S-658 to C. "A" H-989)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

Representative WATSON of Bath REQUESTED a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

**ROLL CALL NO. 452**

YEA - Adams, Annis, Austin, Barstow, Beaudette, Beaudoin, Beaulieu, Blanchette, Bliss, Brautigam, Briggs, Browne W, Bryant, Cain, Campbell, Canavan, Carey, Carter, Casavant, Cebra, Chase, Clark, Connor, Cotta, Craven, Cray, Crockett, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Faircloth, Farrington, Finch, Finley, Fitts, Fletcher, Flood, Gerzofsky, Giles, Gould, Hamper, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Johnson, Jones, Kaenrath, Knight, Koffman, Lansley, Makas, Marean, Marley, Mazurek,

McDonough, Millett, Mills, Nass, Norton, Pendleton, Perry, Pilon, Pingree, Pinkham, Piotti, Plummer, Pratt, Priest, Rand, Rector, Richardson D, Richardson W, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Sykes, Tardy, Thibodeau, Treat, Trinward, Tuttle, Valentino, Vaughan, Wagner, Walker, Weaver, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Ayotte, Babbidge, Berry, Boland, Burns, Cleary, Edgcomb, Fischer, Gifford, Grose, Jackson, Joy, Lewin, Lundeen, MacDonald, McFadden, McKane, McLeod, Miller, Percy, Pieh, Prescott, Rines, Sutherland, Theriault, Thomas, Watson.

ABSENT - Berube, Blanchard, Conover, Duprey, Emery, Fisher, Greeley, Jacobsen, Miramant, Moore, Muse, Patrick, Peoples, Pineau, Tibbetts, Weddell.

Yes, 108; No, 27; Absent, 16; Excused, 0.

108 having voted in the affirmative and 27 voted in the negative, with 16 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Resolves**

Resolve, To Continue the Work of Preventing the Onset of Severe Mental Illness in Youth

(H.P. 1092) (L.D. 1567)

(S. "A" S-670 to C. "B" H-652)

Reported by the Committee on Engrossed Bills as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act To Amend the Laws Governing Stalking

(S.P. 681) (L.D. 1873)

(S. "A" S-672 to C. "B" S-400)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative REQUESTED a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 453**

YEA - Adams, Annis, Austin, Ayotte, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Blanchette, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carey, Carter, Casavant, Cebra, Chase, Clark, Cleary, Connor, Cotta, Craven, Cray, Crockett, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Edgcomb, Faircloth, Farrington, Finch, Finley, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Grose, Hamper, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jackson, Johnson, Jones, Joy, Kaenrath, Knight, Lansley, Lewin, Lundeen, Makas, Marean, Marley, Mazurek, McDonough, McFadden, McKane, McLeod, Millett, Mills, Nass, Patrick, Pendleton, Percy, Perry, Pieh, Pilon, Pingree, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rand, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Treat, Trinward,

Senate at Ease.

Senate called to order by the President.

Senator **WESTON** of Waldo was granted unanimous consent to address the Senate off the Record.

On motion by Senator **MITCHELL** of Kennebec, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Expedite the Maintenance and Repair of Maine's Transportation Network" (EMERGENCY)  
S.P. 932 L.D. 2324

Committee on **TRANSPORTATION** suggested and ordered printed.

In Senate, April 17, 2008, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-1040)**, without reference to a Committee, in **NON-CONCURRENCE**.

On motion by Senator **DAMON** of Hancock, the Senate **RECEDED** and **CONCURRED**.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

**COMMUNICATIONS**

The Following Communication: S.C. 805

**STATE OF MAINE  
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
COMMITTEE ON JUDICIARY**

April 17, 2008

The Honorable Beth Edmonds, President of the Senate  
The Honorable Glenn A. Cummings, Speaker of the House  
123rd Maine Legislature  
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

We are pleased to report that all business which was placed before the Joint Standing Committee on Judiciary during the Second Regular and First Special Sessions of the 123rd Legislature has been completed. The breakdown of bills and papers before our committee follows:

Total Number of Bills and Papers	43
Unanimous Reports	37
Ought to Pass	4
Ought to Pass as Amended	19
Ought Not to Pass	14
Divided Reports	3
Taken from Committee	
Pursuant to Jt. Rule 309	2
Committee Bills & Papers	1
Pursuant to Joint Order	1
Gubernatorial Nominations	6

Respectfully submitted,

S/Barry J. Hobbins  
Senate Chair

S/Deborah L. Simpson  
House Chair

**READ and ORDERED PLACED ON FILE.**

Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-Concurrent Matter**

Bill "An Act To Remove Barriers to the Reorganization of School Administrative Units" (EMERGENCY)  
S.P. 931 L.D. 2323

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

In Senate, April 16, 2008, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "G" (H-1041)**, without reference to a Committee, in **NON-CONCURRENCE**.

Senator **BOWMAN** of York moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **RAYE** of Washington, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED**, without reference to a Committee.

On further motion by same Senator, Senate Amendment "A" (S-682) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President, men and women of the Senate. This amendment that I am offering replicates the amendment that this Body overwhelmingly approved to L.D. 1932. It is the product of the unanimous report of the Committee of Conference to that bill. It would allow the ability of a municipality to withdraw from a school administrative district, regional school unit. Unfortunately, with the bill before us our municipalities across the state will be denied the opportunity to withdraw from a district and I think that this is going to leave a lot of towns trapped in districts where they may not want to go. We've made the decision on this once but we felt that this amendment was the way to go. It also would allow the alternative of school unions, which we have debated in the past. It includes the so-called Gooley-Carter language that provides for an exception for those areas where you have less than 50 residents per square mile. I hope that the Senate will maintain the support that we expressed earlier for these items as we move forward with this issue. Thank you.

Senator **BOWMAN** of York moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-682).

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. I certainly won't debate this for very long because we know this bill probably better than we know our own families at this point. I'm going to support the motion to Indefinitely Postpone. It's no secret to anybody in this Chamber that I'm a big fan of unions. I'm also a big fan of getting something done. We did support this before. We've been very unsuccessful with it. It is time now to move to something that can work. I don't know if you've had a chance to read the bill that is on your desk that we dealt with yesterday, but it allows for an application for an alternative government structure which looks a bit like a union but is not a union. It is an opportunity for towns who wish to maintain their municipality status to have interlocal agreements. I hope you will join us in Indefinitely Postponing this amendment and moving on to something that makes this process work. We really need to go home having accomplished the things that many of the districts in this state are actually trying to accomplish but the tools that they need are in the major portion of this bill.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from York, Senator Bowman to Indefinitely Postpone Senate Amendment "A" (S-682). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#465)**

**YEAS:** Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, PERRY, ROTUNDO, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, NASS, NUTTING, PLOWMAN, RAYE, ROSEN, SAVAGE, SCHNEIDER, SHERMAN, SMITH, SNOWE-MELLO, WESTON

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the motion by Senator **BOWMAN** of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-682), **PREVAILED**.

Senator **BOWMAN** of York moved the Senate **CONCUR**.

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#466)**

**YEAS:** Senators: BARTLETT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, DAMON, DIAMOND, HOBBS, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, PERRY, ROSEN, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

**NAYS:** Senators: BENOIT, COURTNEY, DOW, GOOLEY, HASTINGS, NASS, NUTTING, PLOWMAN, RAYE, SAVAGE, SHERMAN, SMITH, SNOWE-MELLO, WESTON

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **BOWMAN** of York to **CONCUR**, **PREVAILED**.

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All matters thus acted upon were ordered sent down forthwith for concurrence.

the decedents of the original inhabitants of the state of Maine with respect and acknowledge their unique governmental status. All the members of the workshop agreed to the Houlton Band of Maliseet's request that they should have jurisdictional authority and governmental powers similar to those of the Penobscot Indian Nation and the Passamaquoddy Tribe. L.D. 2221 will now provide the Houlton Band of Maliseet Indians with the jurisdictional authorities and governmental powers similar to those of the Penobscot Nation and the Passamaquoddy Tribe. This proposed act includes an effective date provision that sets the effective date for two sections of the bill, Sections 62061 and 6207, as October 1, 2009. The purpose of this delay is because the two land parcels identified in Section 6205 Sub 2A as Maliseet Indian territory are located within established municipalities and the Band and the municipalities need that time to prepare for, and achieve through negotiations and agreements or other mechanisms, the transition of authority contemplated by this act. The committee anticipates that Sections 62061 and 6207 will take effect on October 1, 2009 and that the amendments of Sections 62061 and 6207 will be based on agreements between the municipalities and the Band that assist in the implementation of the powers and authorities provided to the Band in this act.

To give you some history, in 1980 the Maliseet Band was loosely organized and had no land. The State was hesitant, under those circumstances, to agree to the Band having the same authorities and powers as the Penobscot Indian Nation and the Passamaquoddy Tribe. The Maliseet Band has come a long way since 1980. Today the Maliseet Tribal Government oversees many programs related to social and mental health services, a sizable tribal housing complex, sanitation facilities, an environmental protection office, a tribal medical center, a Head Start program, a daycare program, a tribal police department with two tribal officers, and a tribal economic development corporation. The tribe also now has over 1,100 acres of land and the tribe has just opened its tribal court and is in the process of establishing a tribal constitution. These are the functions of a government. The Maliseet Band deserves our legal recognition and respect, both from its historical presence in Maine and systematically building up its governmental capacity over the past 28 years. L.D. 2221 provides both respect and recognition. I'm pleased and honored that I have an opportunity to work on this legislation which is monumental.

**THE PRESIDENT:** The Chair recognizes the Senator from Arrostook, Senator Sherman.

Senator **SHERMAN:** Thank you, Madame President, ladies and gentlemen of the Senate. The Maliseets have been many years in the Houlton-Littleton area and Woodstock, New Brunswick. I would just go on the record, as this goes forward and more negotiations take place, stating that I hope this goes forward with our hopes and prayers and may the wisdom of both sides prevail when we sit down to do these negotiations. I think we understand exactly where the positions of both groups are. Perhaps we can go forward together to achieve something that will be helpful to both sides. Thank you.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

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**ENACTORS**

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

**Emergency Measure**

An Act Regarding the Maine Regulatory Fairness Board  
H.P. 1371 L.D. 1937  
(S "A" S-673 to C "A" H-933)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Measure**

An Act To Reduce Wild Blueberry Theft  
S.P. 795 L.D. 2001  
(S "A" S-675 to C "A" S-542)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with no Senators having voted in the negative, and 32 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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**Emergency Measure**

An Act To Facilitate the Provision of Educational Loans for Maine Students and Families  
S.P. 918 L.D. 2300  
(C "A" S-584; S "A" S-662)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Emergency Measure**

An Act To Restore Positions in the Office of Program Evaluation and Government Accountability

H.P. 1667 L.D. 2307  
(S "D" S-639; S "F" S-659)

On motion by Senator **ROTUNDO** of Androscoggin, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

**Emergency Resolve**

Resolve, To Extend the Pilot Project at the Juvenile Correctional Facilities

S.P. 923 L.D. 2312  
(S "A" S-660)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with no Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

**Acts**

An Act To Improve the Use of Information Regarding Sex Offenders to Better Ensure Public Safety and Awareness

S.P. 147 L.D. 446  
(S "A" S-669 to C "A" S-594)

An Act To Enhance Economic Development in Maine's Aviation Industry

S.P. 770 L.D. 1976  
(S "A" S-674 to C "A" S-485)

An Act To Continue the Maine Military Family Relief Fund Voluntary Checkoff

H.P. 1405 L.D. 2021  
(S "A" S-676 to C "A" H-731)

An Act To Clarify the Exemption of Retail Sales of Kerosene from the Sales Tax

H.P. 1483 L.D. 2097  
(S "A" S-667 to C "A" H-754)

An Act To Amend the Animal Welfare Laws

H.P. 1545 L.D. 2171  
(H "A" H-982; S "B" S-665  
to C "A" H-965)

An Act To Clarify the Laws on Licensing for Charitable and Fraternal Organizations and Games of Chance

H.P. 1597 L.D. 2236  
(S "A" S-664 to C "B" H-962)

**PASSED TO BE ENACTED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

**Resolves**

Resolve, To Study the Scientific Research Support Capability of the Maine State Museum

S.P. 209 L.D. 672  
(S "A" S-671 to C "B" S-403)

Resolve, To Protect Public Health and Promote a Healthy Soft-shell Clam Industry

H.P. 1423 L.D. 2039  
(S "A" S-678 to C "A" H-723)

Resolve, To Direct the Department of Inland Fisheries and Wildlife To Allow Maine Residents To Renew Their Watercraft Registrations Online and To Direct the State Controller To Make Certain Transfers

H.P. 1474 L.D. 2088  
(S "A" S-668 to C "A" H-688)

**FINALLY PASSED** and having been signed by the President were presented by the Secretary to the Governor for his approval.

Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

**Act**

An Act To Remove Barriers to the Reorganization of School Administrative Units

S.P. 931 L.D. 2323  
(H "G" H-1041)

On motion by Senator **WESTON** of Waldo, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you, Madame President. Just before we have the final roll call on this, I just wanted to state for the record that supporting this measure leaves in place many of the most onerous and unworkable provisions of the law that was passed last year. It takes away local governance. Unfortunately, last night the amendment that we had to allow school unions is gone. Unfortunately, there is no provision in law for a municipality to withdraw from a district in order to choose their own partners. There is no other way to put it than to say that I think that this is going to have disastrous consequences, particularly in the rural

areas of this state. I am extraordinarily disappointed that we appear to be on the verge of passing this measure, which I think puts the stamp of approval of this Body on pretty much the status quo. A few nibbles around the edges, but the significant changes that I think the people of Maine had hoped would emerge from this legislature are not included in this bill. I cannot vote for it and I hope others will join me in opposing it.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you, Madame President, ladies and gentlemen of the Senate. I would like to associate myself with the remarks from the good Senator from Washington, Senator Raye. I like his mustard and I like the way he speaks. I think we had a great debate yesterday when people we're arguing that we shouldn't let the federal government tell us what to do. All the talk about infringing on our rights and to leave us alone. Don't do it to us. On and on and on. Now we come to the point where these Chambers are telling people what they are going to do. I don't know how to spell the word hypocrisy, maybe that's not the correct term here, but you can't have it both ways. You are telling three million people and 200,000 school kids and the parents and all the people that go with this what they are going to do and when they are going to do it under the threat of the State of Maine. Many times I have heard Democrats say it's clearly wrong. I'd like to plagiarize that, this is clearly wrong, what you are doing. You are wrapping this up in red tape. Go back and read Jefferson-Hamilton in the 1700's. Two weeks ago the Maine Sunday Telegram had an article 'Is Jefferson winning or is Hamilton winning?' I read an article about One Flew Over the Cuckoo's Nest, if you have seen that with Jack Nicholson, Nurse Ratchet. Jack went in to have a good time. Jack broke the rules. In the end Jack had a lobotomy. I think that's what we are doing here. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. I haven't said much on the education bill because, obviously, there are people who have worked very hard on this during the last two years. I do need to add a couple of words. Obviously, what we did last year, and what we are doing today, is not my preference and not the way I would have done it. I think that we have to move forward in this state when the State of Maine is giving over a billion dollars a year to the municipalities. The State of Maine ought to expect certain things to occur at the local level and they have not been. In my own county, for at least the last 12 years, I pleaded with superintendents that they ought to work together, cooperate together, and get rid of a number of them. Since we had 20 superintendents in Aroostook County, 16 full time and 4 part time, for a school population the same as the City of Portland has. They said that was local control. We talked about a waste of money, State money and local money. We've been watching it in Aroostook County for years. I put in a number of bills to deal with that issue and I can guarantee you that every one of those were killed by the educational community, in particular the Maine School Management. What we ended up with, in my opinion, is not the best of what could have been. If only superintendents had attempted to work together many years ago and understand that we couldn't afford the system that we

had in this state. That's unfortunate. What happens, and I always worry about the pendulum swing, people get so frustrated at some point they go to the end of that swing. In my opinion, that is partially where we are. Eventually, I think, the pendulum swing will come back to where it ought to be, but where we are today was brought on by the educational structure in this state and in particular by the superintendents of Maine. You could see it coming and we could have realized it. They should have themselves simply because the vacancies were there and they were becoming more and more. It's difficult to find people who even want to be superintendents and I understand why.

As a matter of fact, some of you may know I've been on a school board, and am still serving on a school board, for the district in which I live because no one else wants to do it. That I can guarantee you. As a matter of fact, last year in the six districts that we were hoping for school board members to run in we didn't have a single candidate. Not one. This year we didn't do much better. I'm not sure in my hometown because there is one district open and my hometown is the only district that votes in June. The papers are now available and I haven't seen anyone file for that seat.

As we move along here, obviously, if I had had my choice it would be somewhat different than this. We brought it upon ourselves and we only have ourselves to blame when we look at ourselves in the mirror.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. I wasn't planning on speaking on this, I represent a rural district. I was just going to be voting to oppose it. When I listened to the previous speaker, the good Senator from Aroostook, Senator Martin, talk and use phrases like 'waste of money' and 'not the best', I agree with him but I'd use these words a little differently. When I look at the computer print-out here where the last four years worth of new EPS school money has gone, and we have had a large increase in the amount of money we put in GPA to education, I see where that money went. This school consolidation adversely effects rural Maine. When I look at where the money went the last four years and, even with declining enrollments, the money has gone to the cities who aren't effected at all by school consolidation. I'm seeing city after city here gain between \$8 million and \$16 million over the last four years. To me, that is a waste of money. That's not the best situation. We're passing bill after bill. When it comes to schools that adversely effect rural Maine, we're pumping millions and millions of dollars into our cities. That isn't right. It isn't right at all. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, men and women of the Senate. Nearly one year ago we sat here and passed the original school consolidation bill. I sat in my seat and I listened as one by one people stood and said, 'This won't work. This has problems, but I'm going to vote for it and we'll see.' Just a few months after that, in the fall, what we heard was, 'We really know this isn't working and we are going to fix it.' I think we were even told that we were going to do it the first three days of the next session. Here we are at the very end of this session and we

are still saying this isn't going to work. This has problems. We have ourselves to blame. If I could take on the hat of the Chief Executive and I had just been elected for my second term, I think it might have been good to do something like this, to acknowledge the problem, and there is a problem. We have declining students and increasing costs. It would have been good to say, 'The first two years of my term I am going to bring everyone together and we are going to find the best way not just to cut costs but to improve education, to present our students with the best education possible, and to send them out into the world of Maine to make a good living, to help people, and to lead a successful life.' That has been lost in this whole entire debate. I would then have said, 'In the last two years of my term we are going to implement it and we're going to see success in our schools.' If you want anything to succeed you bring people together. You determine the best way to make it happen. You get everyone on board and then you proceed to make it happen. This was a few people deciding how they would make other people live and work and then forcing it upon them. That's not the formula for success. We now know that's very true. I find it so disappointing that I have to leave this term once again saying we didn't do it right. The people who come back in the 124<sup>th</sup> will still be dealing with this. My only hope is that they will listen to the parents, to the teachers, and to the administrators and that there will be a coalition built to focus on how to bring the very best education to our children in the most efficient way. I will be voting against this. I've tried to be consistent all the way through because my focus was first on education and second on efficiency. We have neither in this bill. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

**Senator TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I didn't expect to be speaking on this matter but simply voting on it. I will start by reminding you of my Uncle Bert, somebody that the Senator from Washington, Senator Raye, also knew when he was a young boy. My Uncle Bert would say, 'I can go out on the street and find a hundred people to tell me how not to do it. I'm looking for the one person who can tell me how to get it done. That's the person I want on my team.' Anytime you get involved in restructuring an entity, whether it is public or private, there are significant tensions. Most of my experience has been in the private sector. Once the decision is made people line up and work to get the job done. If they don't like it they leave. The public process is very different. All the stakeholders have an opportunity and they usually exercise that opportunity fairly well. I think it's an understatement to say there has been fierce resistance to the changes that this law has brought onto the state. I hope that this resistance will abate and we can get onto doing the work of educating our children in the best manner possible in the most cost effective way. You can go to all 50 states in the union and any time schools are brought up there is always a fierce debate and change is wretchedly slow. Frankly, it puts us at a disadvantage competitively in the international market because whether you are a first world power or a second world power the emphasis on education is much more focused. The Senator from Aroostook, Senator Martin, could tell you better than I, we have taken a decentralized approach to government. We are a republic. In this part of the republic we have had a long tradition of local control. I don't think, as the Senator from Aroostook, Senator Martin, has pointed

out, that it is delivered the way we would hope it would be delivered and we are where we are. I would hope that those in this Chamber who have been fiercely involved in opposing what needs to be done will take half as much energy into trying to make it work. My Uncle Bert is looking from above and wants to find that one person who can get the job done. Think about leading your constituents as opposed to following the parade that they build for you. That's not always popular, but when you know something needs to be done you can do it by setting an example and sometimes taking the popular stand isn't necessarily the right stand. I think that with our constituency sometimes giving them a dose of reality is the best elixir for them. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Sullivan.

**Senator SULLIVAN:** Thank you, Madame President, men and women of the Senate. I'm a pretty pragmatic person. Some people would call me stubborn. I choose not to use that adjective. Obstinate maybe. However, I will vote for this because if it becomes law this makes some corrections. Later there will be a chance to repeal. I will also vote for that because that is what I've been asked to do by three of the four communities that I represent. The reality is this corrects some of the problems from before. If it becomes law we need to correct as many as we can. There does need to be a change. No doubt about it. I see it every day that I'm not here, it seems like, and the changes must be coming. Again, I will use the 'would have', 'could have', and 'should have'. There are a million things we would have done differently. Some of us may not have run for office. The fact remains that this is the best we have. What we have for law needs some fixes. This is some of the fixes. If you want to make a stand, you can ask and vote later on something entirely different. However, if the Chief Executive decides to veto you need to fall back on something. This allows us to fall back and make some corrections. It's very difficult for people who represent both the city and the rural areas, but we have to think of education. I will be voting in support of this. It is not, like Dirigo, everything I wanted but I understand compromise. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Raye.

**Senator RAYE:** Thank you, Madame President, men and women of the Senate. I just want to rise in response to my good friend and colleague, the Senator from Cumberland, Senator Turner. As he said, I knew his Uncle Bert when I was a little boy. Uncle Bert's three grandsons are my half-brothers. I can tell you how Uncle Bert's progeny feel about this issue. I would also tell you that the Senator's Aunt Laura, whom we honored in this Body upon her 99<sup>th</sup> birthday a few weeks ago, has personally lobbied me on this bill and not in the direction that the good Senator from Cumberland, Senator Turner, would have her do it. I just want to say many, many people from throughout rural Maine have come to the table in a constructive and open way to have dialogue, to have input. Much of that was reflected in the language that this Body rejected last night in what had previously been the Damon Amendment that was defeated here last night, in the Ray Amendment that was defeated here last night, and the Gooley Amendment that was defeated here last night. When I hear the suggestion that the people of rural Maine are stubbornly resistant

and need a dose of reality I would remind this Body that the people of rural Maine have participated. Their voices and their opinions have been cast aside by this Chief Executive and many in this Body. If you sense some anger in my voice, it is there. I resent the way this has turned out in this legislature. The way the honest differences that we have brought to the table to try to negotiate have been stymied and cast aside at every juncture. We are, by what we did here last year with this budget and by what we are about to do here today, driving the wedge deeper and deeper between the two Maines. We talk about unity. We talk about it in our prayers when we open in the morning. We talk about it in a collegial sense with each other. Many of us have great friendships on both sides of this issue and both sides of this Chamber, but I can tell you that the wedge that is being driven between rural Maine and the cities of Maine is devastating and this bill is making it worse and it pains me. I know there are some in this Chamber who may not believe it, who may think we are over-reacting, I'm telling you we're not. When you hear the Senator from Androscoggin, Senator Nutting, the Senator from Aroostook, Senator Sherman, myself, and those of us who have spoken out, it's from the heart. We are representing the people we were sent here by. They are a part of this state too. They deserve the respect. They deserve to be listened to and accommodated in some respect so that we can maintain our traditions and our communities in a way that honors excellence in education and a tradition of local control. We're losing it. It's changing the face of Maine. I think not for the better.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Mitchell.

Senator **MITCHELL:** Thank you, Madame President and colleagues in the Senate. I wish I lived in Washington County because I know I would have loved Uncle Bert and I think the mustard that's being distributed must be spicy brown because it is the kind of heartfelt conversation we should be having with one another. We care deeply about one another. I want to take you back on a quick journey through this odyssey that we've all been on as we've tried to find the right answer. On the one hand we have tried to cut taxes. The State is overspending and it needs efficiencies. We're all trying to do that. How do we do that without hurting children? I am here as a mom, a grandmother, and a former teacher. The first thing on my question plate is what helps the children? We started out with a proposal to try to get less money out of administration so that the children could have more money for their learning so that they could have the kinds of things we wanted them to have, the foreign languages and the math, so that we would be a world-class competitor on the education stage because we know we're living in an international economy. I keep hearing businessmen telling me that they are having a hard time. In fact, I was at the constructor's banquet the other night. The number one issue they were facing was qualified workers. This is what we are all thinking about. Even though we are disagreeing a bit on the path to get there, I don't think any of us disagree about that. Let me remind you, after last session's vote the leadership of this Body set up a process to try to enact immediately. I think we had the naive notion that we could enact the first week of January several things that were barriers to those schools who wanted to get together. They wanted to. They were not being forced to. They wanted to because they saw something in it for their kids. In that was the ability to negotiate costs and it was the 2 mil rate minimum so that minimum receivers could

continue to have the incentive to get together. Thirteen people on the Education Committee said, 'Yep, those are good ideas.' Because of the enormous frustration about how we organize ourselves, as you recall, there was an amendment attached and we had the same discussion we are having here today about unions. I must tell you, when we lost the ability to pass an opportunity in the Damon Amendment for unions I really could not talk for about a day. When the Commissioner called me to talk about it I said, 'I can't talk to you right now. I am grieving. It has nothing to do with you personally, but I am grieving.' You may not know it, but I do represent a union. I do think a union has a valuable function to play.

Nevertheless, the reason we are here on the last day of the session is because we've all been struggling to find a way to honor the union operation. The bill that we are trying to pass does not have a union per se but it does have the opportunity for towns to continue to operate much as a union does in terms of local school boards and in terms of inter-local agreements. It may not satisfy, but you need to know that it's there. I want to tell you, I put myself, or asked to be on, one of those planning committees. Believe it or not, as hard as it was, for one brief moment, and I must admit it's been snuffed out by the delay here, we were having the most extraordinary discussion about kids and their future. I was sitting down with a SAD, SAD 47 that includes Oakland, Messalonskee High School, and the towns they represent. They didn't need to do anything. They were well over 2,500. We were discussing with Waterville, a municipality. My Union 52 was also over 2,500 but nevertheless that form of governance was not available. For about a month or two we were talking about what possibilities our kids would have. There would be three high schools. One of them might specialize in math and science. One might specialize in the arts. Our kids, from all of these towns in central Maine, could choose the high school. I know that might not be popular with some, but we were excited about that because the kids in my union already had choices. We brought that idea to the table and it had a lot of appeal. We were talking about the children. What about Chinese being offered over ATM? What about Spanish classes? What about physics and advanced placement courses? That was our discussion. We couldn't get there because of debt. Did we want to take on Winslow's debt? Absolutely not. Vassalboro didn't have any. We were able to negotiate, which this bill allows us to do. I hope that we can move forward. If we don't find a new way to organize ourselves we'll never get to quality. I am totally committed to the discussion that the Senator from Androscoggin has raised about quality. Don't forget, we're dealing with a referendum. The referendum that said 55% of the cost of education. Most people don't understand it's the total cost. Those school districts that spend \$14,000, \$15,000, or \$20,000 per child are ratcheting up the cost even if they don't get State aid. That goes into the formula. If you think the State's not going to be concerned about how we operate in that arena that you haven't thought about strings being attached. Be careful what you ask for. I might say, a lot of the rural towns get a lot more money than some of the urban areas. Let's look at the urban areas for a minute. That amendment that was passed with the help of Maine Municipal, Maine Education Association, and a lot of people who thought they were doing a good deed also included 100% of funding for special ed students, whether you needed it or not. If you can raise your entire amount of school aid on a 2 mil effort, you still get money. That's what is wrong with the print out that the Senator from Androscoggin is using. We have lost sight of equity

in these gyrations we've been through over the years. Once we get our governance thing in place and we can spend less money on administration and more money on the kids, I hope that anybody who's back in this Chamber next year spends 100% of their time talking about quality and where we want our Maine kids to go. I'm sorry for the anxiety that people are going through, but I think it just indicates that there is nothing that is more dear to us than the education of our kids. I hope you will join me in voting for this bill and we can move forward and make this even better as we go along. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. There may be a reason that we've had such a difficult time with this issue for two years. In my opinion, it's about trying to take an amendment that's a bandaid to fix up major surgery or a gaping wound. My district is all rural and I think that we have suffered right from the very beginning. I think the suffering and the inability of us to move things along is because of our approach to the entire system of how we did it. I don't think we were truthful with the people of the state of Maine. We talked about the quality of education. It was always the first sentence in a big document, but the rest of the document was all about money and who's going to save it. We convinced the people, or some people tried to convince the people, that they were going to save money also. We should have been up front with them right from the beginning, not about money but about what the problems were that we had to face up to. We should have brought all of the stakeholders, the superintendents, selectmen, board members, and citizens together and we should have educated them about what the main problem is with our education system. We had 240,000 students. We're down to 200,000 and we may bottom out at 180,000. We should have been up front and told the people that we needed to do something about it and we're going to have to close schools. The discussion should have been around that. In closing schools, we're going to have to lay off some teachers. Those jobs aren't going to exist. Instead of that we ran around telling people, 'Oh, we're not going to close schools and we're not going to lay off any teachers.' We didn't finish the sentence. We're going to take so much money away from you that this will be the only choice that you will have and you are going to have to do it with a club and penalties because here they come. Not a carrot and a stick, like the Sinclair Act. We didn't have this honest discussion with the people about closing schools, because that is really what it is all about.

This saving money through administration is possible, but it's just a smokescreen. It's not the real issue. It's having a school system in the state of Maine that we can afford to run with a much smaller school population. We should have been up front and told them that. If we had laid it all out on the table from the beginning they would have come along and we would have had a much better system, even though I think maybe we'd only be two years into the discussion right now and ready to solve the problems. We hid it all and we kept the superintendents out of the discussion and we kept the legislature out of the discussion until it just landed on our desks one day. To me, it was like being in a train wreck. I couldn't even talk about it for two weeks because it was such a big, massive concept.

I can sell sofas in my store at 70% off, but 70% off of what? When the people asked for 55% of school funding they didn't ask, '55% of what?' They wanted 55% for tax relief for property taxes. When they asked for 100% of special education they didn't ask, '100% of what? Or what gimmick can we come up with to change all that?' They were asking for property tax relief. While we must, and we have to, consider consolidation of some kind, in the environment we are in there is nothing wrong with that entire concept. We should have been up front. We told them they were going to save money. In the headlines of one of my local newspapers, just one week ago, I picked it up and there it was. Property taxes in Newcastle are going up .11% because of school funding. The Superintendent of Wiscasset recommends withdrawing from any more discussion on consolidation. South Bristol school town meeting considers abandoning the whole system. A person running for a selectman's office in Damariscotta recommended the school system go private. We've had nothing but problems because we weren't up front with the people. My people in all of the towns in my district are still waiting for some tax relief from this school consolidation, but we haven't done it right. We've put the cart before the horse. We took the money away from them first so that they would have to fill in the gap, the hole. We took the money away even though there is no savings mechanism in place yet. We shouldn't have taken that money away from them. We should have waited until we were on the verge of a mechanism for them to save money. I think that we should have allowed them to achieve the first savings in the state, not the State of Maine. We should have allowed the people that voted for this referendum to realize the first savings in the state. I've had to vote against everything because all I've seen is increased taxes. Major increases, first from L.D. 1 in my rural district then from this plan to consolidate and pulling the money away first. All of my towns have had tax increases to fill in the hole from the money that we took away from them, all in the name of this consolidation to save money. I'm not saying that money can't be saved, but we were worried about our budget. We were worrying about our spending priorities, which, by the way, I obviously disagree with. I'm going to vote against this again, and I'm going to hope that someday we can get back to doing this thing right and giving the people the truth and letting them deal with the real issues that are out there, not the ones that we've tried to manufacture and make up for them here and then tell them to look at all the money they are going to save. It hasn't happened yet and we're still maybe three to five years down the road before any savings occur for the property tax owners. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you, Madame President and men and women of the Senate. In my view, this is not a rural or metropolitan issue. I've had the good fortune of living in both Maines. If there are three Maines then I've lived in three Maines. Just recently there was a fascinating editorial in the Sunday Telegram about how the City of Portland has a need right now for five elementary schools and they've got eight. They've got neighborhood versus neighborhood at each other's throats over the very notion of closing any of those eight schools. They can't figure out how to get it done politically because there is such intense resistance from one neighborhood and another. Indeed, just a week ago, in a very rural district in my Senate district, there

was a small and ever diminishing school district that did organize way back 40 years ago under Sinclair, back when they were supposed to, they had a meeting where the management was saying they had to close two of their four elementary schools because one had 46 kids with 6 kids in the kindergarten and the other had numbers down in the low double digits. They said they probably should have only one school but the distances were great. They voted overwhelmingly to close none. I would echo the Senator from Lincoln, Senator Dow's comment that this idea about consolidating administrations is only part of the picture. It is part of the picture, however. Unfortunately, we have a \$2 billion system for 200,000 kids. Either we have to start making more babies or cut the dollars down to make it fit the number of babies we've got. That's just the raw math. I'd prefer the making more babies, personally.

I think the interesting thing about this great social experiment in Maine, and the 290 experiments that we have floating across the state, is that there are some of them that are actually working. In my own district, in the Fairfield area, they are at EPS. They don't have any property tax base. They have got one-half of the paper plate factory. The other half is in Waterville. Beyond that the industrial base of that district is modest. They are heavily subsidized by the state system to survive. Yet they have been under good management for years. They are at EPS. They have high academic performances. They are doing it in a rural setting. You've got Scarborough, in a metropolitan setting, or at least by my standards, and Windham as examples. Another rural area is the Guilford area. It seems to do well. They are working with funding at the EPS level. They've done what they've had to do to deliver good educational services at a modest cost. It can be done. Administrative consolidation is a key and, unfortunately, as the good Senator from Lincoln, Senator Dow, points out, school consolidation and laying off teachers is another key. That's sad to say, but it's true. We have the second lowest pupil-teacher ratio in the United States, right behind Vermont. We have about the eighth or tenth, I've heard different figures, highest cost per student in the United States, yet we all know that our median income level is down around 36 or 37. We have a school system that we clearly can't afford. We cannot use rurality as an excuse because the costs are not only in Washington County and parts of Somerset County but they are in Portland too. We've got to face this thing head-on.

I think the marketplace, unfortunately, is going to face it for us. This is what I think. Back four years ago, when the MMA and the MEA combined forces to put that referendum on the ballot and appealed to the people's deep concerns about property tax relief, there was a lot of discussion in the summer of 2003 about fending off that thing by supplying a rather modest amount of money into the EPA formula for that year. I think it was in the order of \$30 million. I said to the Governor, 'Pay it.' He didn't. The referendum went onto the fall ballot against a very weak alternative that was designed by this institution and it passed on its own in June of 2004. We geared up with L.D. 1 and we slashed the social service budgets. We flat funded them for two or three years running now. We didn't raise taxes. We didn't borrow money, though some of you tried. We toughed it through. Just this past month we got a report from the Planning Office that said the \$800 million we raised over a span of two or three years for K-12 for property tax relief went right into K-12, supporting a system that we knew from the beginning was unaffordable. Guess what? It's much more unaffordable today than it was three years ago. You think it was unaffordable back when we started

L.D. 1, just take a look at the Planning Office report. We're deep into unaffordability now. The Governor responded, late but he responded, last year with this rush to get consolidation done in a hurry. You may remember his first version was 26 districts and do it now. That is beginning to look appealing at this point. I'm partly jesting. We've lived through this.

This bill that lies in front of us, frankly, is a repair to an effort that was drafted by not one committee but many committees. I'm not a big fan of what we did last year. I had other ideas about how to do it. I like incentives. I think they work better and I think it would have taken more time to use them to get to the end result. Here we are and we've got a bill in front of us that will simply make a little bit better the bill that we all have deep reservations about from last spring. There is no reason, in my humble view, not to vote green, but I do so knowing full well that it isn't going to be an adequate response to the very deep seated cost issues that are driving the tax revolt in this state.

I want to end by making a rather dire prediction. To the extent that consolidation doesn't happen, we are going to have property rich towns behaving almost like rich towns in the Middle Ages when the plague was coming through. They will close the gates. Leave the disease out there beyond the wall. They will take their shorefront property or their paper mill, draw that little municipal boundary around it and say, 'That's our money and we'll run any bloody school system we choose to run with the fiscal capacity that we have.' All the scruffy towns outside the wall will have their property taxes and the State will dribble out some money to them. They will have to do the best they can. We will wind up with the same kinds of horrible disparity in the school systems that you sometimes see in the deep South as a product of another era and another set of social concerns. This kind of ghettoization is present here now and it can get a whole lot worse once the equalization factor of school funding dries up. Ours is dried up. We flat funded GPA this year and, guess what, I hate to say it but I think we're going to flat fund it next year because the social service side of our budget has been devastated and the pressures on that side are so substantial that we can't ignore them. We won't. We will say to the towns that they need to use their property tax capacity, whatever they have. Those that have it will be fine. Those that don't are going to be rendering a far less adequate education for the poor children that they serve. This is my concern. Administrative consolidation is a way of addressing those concerns. If we fail to do this we will have a state that we will not be very proud of.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Gooley.

**Senator GOOLEY:** Thank you, Madame President, men and women of the Senate. Very quickly. I'd just like to say a few words. I'd like to weigh in on this briefly. Of course, this all started out with the referendum where the State was supposed to pay 55%. Then the Governor listened to the Brookings Report, which probably hasn't been mentioned here this morning, and we have all these federal mandates. We have a lot of pain in this state. Then the Governor launched this educational consolidation effort through his budget. I do represent rural Maine. I also represent a part of urban Maine, which is like the Messalonskee School system. I guess the thing I want to weigh in on is that it's the top down approach that has bothered me more than anything else. I've talked to a lot of people in rural Maine. There has been too much pain on this and it's been a painful process. I just see it

as a top down approach and we should have avoided that if we could have. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Bowman.

Senator **BOWMAN:** Thank you, Madame President, men and women of the Senate. I wish I had an Uncle Bert and I wish every one of us did also. I think we would be even better than we already are if we had such an influence in our lives. I had a grandmother that greatly influenced me, but she didn't quite measure up, from what I understand, to Uncle Bert's standards.

I will be very brief in going over things we already know. If you take a look at the declining student population over the last three decades, this is not a recent issue. If you take a look at that and you look at the increasing costs, especially the administrative costs, and you look at the unsustainability of school finances in this state, you know there is a problem. Uncle Bert would recognize that and he would spring to action. From what little I know of him, he is a very inspirational person.

L.D. 2323 attempts to make the ongoing process better. It's not optimal. It's not my first choice. It's a compromise. I love that word because it was driven home to me once. Somebody said, 'You know, life is really about compromise.' I said, 'Well, are you sure?' He said, 'Yep, just ask your wife.' I suggest if you don't agree that life is largely a compromise you do the same, regardless of gender. L.D. 2323 is an example of what we, in this wonderfully able and wonderfully flawed democratic process, can produce. It's a compromise. It's not many people's, perhaps any people's, first choice.

In my life I have encountered a lot of people. When you get to be 70 a lot of water has gone over the dam. I have met more people who would rather complain about problems than those who would rather solve them. I don't know if he was the first person to say it, but Lee Iacocca made a name for himself by saying, 'Lead, follow, or get out of the way.' In part because I was thrust into that situation, but in part because that is the nature of my core, my values, my principles, my life, and my experiences, I chose to lead in resolving the issues that I've described to you. I don't know where I'll be next November, but regardless of where I am, regardless of what position I am in, I will either lead or follow to make this process even better and I urge you all to do the same. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President, ladies and gentlemen of the Senate. As I've listened to this excellent debate this morning, I'm still struck that many members of this Body, I think, today believed that this would be a quick vote. I am still amazed at that. I think some members of this Body still think that we are going to somehow debate and discuss school consolidation in a vacuum and somehow those folks in rural Maine are going to discuss and deal with school consolidation without even somehow blanking out of their minds totally where the school funding money is actually going. That, to me, is an impossible situation. They are asking, 'Are we living in a rural state or an urban state?' To me, we live in a rural state with an urban school funding formula. The two are hitched together. I don't see how we can assume to discuss one without realizing we really have to discuss everything together.

I have heard some things about the referendum that passed. Immediately, L.D. 1 made significant changes to the school funding formula that effected rural Maine. Immediately, No changes have been made in EPS concerning the 90 minimum receiver districts until right now. Almost four years later. I look at this print out of where the money has gone in the four years and I compare that with another print out that is the actual number of mils raised for education, what the actual mil rate effort to run their schools is. I look at Boothbay Harbor, who does their whole school budget in total at a mil rate effort of 3.1. They have millions of dollars evaluation per student. That's great. If you look at where the money has gone in the last four years, they have had an increase in school funding of \$1.7 million. They have one of the lowest actual mil rate efforts in the system. What does this bill before us do? It even exempts school districts from even having to raise a mil rate effort of 2. This bill just compounds the inequity in our school funding formula. In the last four years the 90 minimum receivers have gained close to \$20 million and that \$20 million has had come from somewhere. Largely it has had to come from those school districts that are in rural Maine, that don't have much value per student, has the highest transportation costs built in, and they have suffered because of it.

I think the fact that equity is now gone from our school funding formula, due to the policies of this Administration, that is just adversely effecting people's attitudes towards school consolidation because, to me, I will remind you, in closing, that you can't talk about school consolidation in a vacuum. You have to realize that it is part of the whole school funding formula debate. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Arostook, Senator Sherman.

Senator **SHERMAN:** Thank you, Madame President, ladies and gentlemen of the Senate. I just have four items, and you can check them off. Looking out the window I noticed the buds are getting larger out there. There is a slight green haze across the far hill. I was sitting here thinking that I have some plowing to do back home and I'd like to sit on that green John Deere 4020, filled up with \$4 diesel, and plow and when you're done you're done. We're plowing old ground here, as we all know, for a number of reasons. The four points, most of them have been said in one form or another. I really like what the good Senator from Lincoln, Senator Dow, had to say. When we started last year there were seven of us who voted against the budget because that thing was in the budget. I've cited the Senator from Cumberland, Senator Diamond, on the jail consolidation issue. Even though I voted against that, it was crafted, beaten, and thrashed out. I wish we had done it that way, which has already been mentioned.

My first point is that some of us have wandered around the classrooms for 20 odd years. Someone said we were there every other year. When I hear these debates, they don't ring true to me. To those of us who have beat and thrashed in those classrooms, what I am hearing is foreign. I wouldn't tell the Senator from Somerset, Senator Mills, how to present a court case. I wouldn't tell the Senator from Oxford, Senator Hastings, how to run a bankruptcy or sell buildings in New Hampshire. I wouldn't tell the good Senator from Cumberland, Senator Diamond, how to run his mortgage company. I certainly wouldn't tell the good Senator how to run a submarine under the water, although the other day he told me he ran into a Russian sub at

one time. That's another type of issue. The tin ear issue kind of bothers me.

The second thing, we talked about kids in the classroom and learning. I ran through, actually Googled some stuff. When you look at high per capita income states or income areas, what you find is that those folks that have dough, their kids seem to do well. If it's the bell curve, I don't know. You find that across the country that there is not necessarily a correlation with per pupil cost and achievement. The State of Maine has had some good achievement levels in some 4<sup>th</sup> grade and 8<sup>th</sup> grade SATs. Really better than many states. Everyone was forced to take a SAT and that brings the level down. Some states have very few kids that take the SATs. I question some of the data.

Number three, Herb Belanger was a very wise man. He was the Superintendent at Caribou. We experimented with mini courses. We experimented with blue and white days. Getting the kids ready for college and all of that business. Herb was a wise man. He was here three terms. He was on Appropriations. He said, 'I've had enough of Appropriations, I'm out of here,' and went golfing in Florida. He's got a house on the coast here but is probably a resident in Florida. Herb would say, 'Get a good teacher who knows his or her subject matter, put them in front of a bunch of kids, and they will learn.' I know they are not bunches, but that is our lingo for our little darlings. There is no question about it, they will learn. When you are talking about too many teachers or too many superintendents, I don't care. Give them the tools in the classroom and find those good teachers. There is an issue about teachers who should not be in classrooms. MEA fights to the bitter end to keep some teachers who should not be in the classroom, but then there is that whole legal process. Maybe we should look at that. After one year you are almost granted tenure. To me, that's a real issue. On the other hand, when talking about teachers, look at the people who stay a while and then go. High turn-over.

My last point is a study done by a gentleman who was in the school system for years and years and years. He e-mailed it to me. He was a Senatorial candidate at one time. He said there is a high correlation between the number of kids on student lunches and achievement. A lot of this is related to money issues in certain ways. I will leave you with that. I hope that I can get the John Deere started. It is a green one. My brother-in-law doesn't like green tractors. He likes red, but he has more money than I do. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

**Senator MARTIN:** Thank you, Madame President and members of the Senate. First of all, I want to thank the Senator from Somerset, Senator Mills, for laying it out for us because he's done a great job in doing that. I need to remind people because most of you were not here, a few of us were but most of you were at home, that the equalization issue went out the door in the early 1970's with the Uniform Property Tax repeal by the citizens of Maine. Since that time we have been unable to cope with the problem of equalization. You need to keep that in the back of your mind. To the Senator from Lincoln, Senator Dow, I want to tell him that his community has the same problem as my hometown. He has the ocean. I have a lake. There is no hope for property tax relief because the property tax values keep coming, the State valuation keeps going up, and we'll continue to receive less money from the State. Of course his is worse

because it's the ocean and the value is greater. You saw that and you've seen that happen this year in Washington County where communities are being devastated. There are cuts in State revenues or State dollars for schools in Lubec and Eastport. When I looked at those figures, in my opinion, it's an absolute disgrace. That's something that we, as a legislature, have not dealt with and we continue to ignore the issue of valuation and the adjustments that are caused by it. That has an impact on education at the local level.

Finally, my last point that I want to make. People have talked about the top down approach. I can guarantee you the bottom up approach hasn't worked. In my district, in my area, the St. John Valley has 24,000 students, four full time superintendents, four business offices, and one part time superintendent. If we can't achieve administrative savings, and we haven't gotten there yet, by the way, then we ought to really be concerned about what we can do in the long run. I would remind my citizens of Maine that we, the Senator from Aroostook, Senator Sherman, and the Senator from Washington, Senator Raye, live very close to New Brunswick, and we tend not to look at what they do because we don't want a system like them, apparently. They have a top down approach. They have five school districts and five superintendents who report directly to the Minister of Education who carries out the management of the educational system in that Province with a population that is a little less than ours. They have no school boards, but an advisory team at each school made up of parents and teachers. I'd encourage you to walk across the border and see how they are doing. The time has come that we need to change the way we do it here.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Turner.

**Senator TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I've never passed up the opportunity to perpetuate a family feud. Knowing that my Aunt Laura had lobbied the good Senator from Washington, Senator Raye, I made a special trip to Florida to discuss the school administration consolidation at length with her. I also dropped off a sentiment expressing the good wishes of this Legislature on her 99<sup>th</sup> birthday. Sometimes you may think that wisdom comes from the mouths of babes, but it can often times come from very sharp 99 year old women who have extensive life experience. We had a significant discussion on this matter. You need to know that her brother-in-law, Omar, was in the room. She said, 'I know what Omar thinks. I want to know what you think. I want to understand why.' I proceeded to answer her questions and periodically she'd go, 'Umph.' Not to me, but to Omar. We went back and forth for close to an hour. On at least two more occasions she'd go, 'Umph.' She reminded me of Doctor Evil quieting the dissent in his ranks. When she had her questions answered, and she knows of Lubec, Eastport, Calais, Vanceboro, Danforth, and the like having lived in Washington County for most all of her life, she said, 'Perpetuation of our current situation cannot stand. The system is not working for us. We need to go forward, we cannot go backwards.' I'm not certain you are right, but it's likely that you are. We need to try. With those words of wisdom, I would ask us to go forward and to try. Thank you, Madame President.

**THE PRESIDENT:** The pending question before the Senate is Enactment. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#467)**

YEAS: Senators: BARTLETT, BENOIT, BOWMAN, BRANNIGAN, BROMLEY, BRYANT, COURTNEY, DAMON, DIAMOND, HOBBS, MARRACHE, MARTIN, MCCORMICK, MILLS, MITCHELL, PERRY, ROTUNDO, SCHNEIDER, STRIMLING, SULLIVAN, TURNER, THE PRESIDENT - BETH G. EDMONDS

NAYS: Senators: DOW, GOOLEY, HASTINGS, NASS, NUTTING, PLOWME, RAYE, ROSEN, SAVAGE, SHERMAN, SNOWE-MELLO, WESTON

ABSENT: Senator: SMITH

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President was presented by the Secretary to the Governor for his approval.

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Joint Resolution**

The following Joint Resolution:

H.P. 1687

**JOINT RESOLUTION COMMEMORATING THE 75TH ANNIVERSARY OF THE COMMISSIONING OF THE DECORATED WORLD WAR II CRUISER USS PORTLAND**

WHEREAS, this year marks the 75th anniversary of the commissioning of the cruiser USS Portland, one of 2 vessels to bear the name of a Maine city in battle in World War II; and

WHEREAS, the cruiser USS Portland earned 16 Battle Stars from 1942 to 1945 in World War II, serving from the attack on Pearl Harbor in December 1941 to the Japanese surrender in September 1945 and ranking as one of the most decorated ships of the entire war; and

WHEREAS, the USS Portland was commissioned at the Boston Navy Yard on February 23, 1933 and sailed on her shakedown cruise to South America in April 1933; and

WHEREAS, the USS Portland was diverted from that cruise to search the North Atlantic for the downed United States Navy airship the USS Akron, and in 1937 searched the Northwest Pacific for the lost American aviator Amelia Earhart, actions symbolic of the scores of search and rescue missions the ship undertook in its career; and

WHEREAS, President Franklin D. Roosevelt chose the USS Portland as his flagship and lead gunboat in the 1930s on expeditions to South America, Panama and Alaska; and

WHEREAS, the USS Portland was the first United States vessel to intercept and decode the Japanese orders to attack Pearl Harbor on December 7, 1941 and initiated the first warning; and

WHEREAS, the USS Portland participated in almost every major naval activity in the Pacific Theater in World War II, including the Battle of the Coral Sea in 1942, the Battle of Midway in 1942, the Guadalcanal Campaign in 1942 and 1943, the battle for the Marshall Islands in 1944 and the battles at Leyte Gulf and Luzon in 1944 to 1945, the world's largest sea battle; and the USS Portland took the surrender of Japanese forces at Truk Atoll on September 2, 1945; and

WHEREAS, the USS Portland was known as the "Sweet Pea," defeating 2 Japanese Imperial battleships in close combat and saving hundreds of American sailors in search and rescue missions during 12 years of dedicated service in peace and war, and is recorded as one of the greatest American fighting ships; and

WHEREAS, the USS Portland was decommissioned in 1946; and

WHEREAS, the mainmast and navigation shield of the USS Portland today stand facing the sea atop the Eastern Promenade in the City of Portland, marking as well the United States-Russian North Atlantic Convoy Memorial, symbolizing Maine's history and heritage of "they that go down to the sea in ships, that do business in great waters"; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-third Legislature now assembled in the First Special Session, on behalf of the people we represent, take this opportunity to commemorate the 75th Anniversary of the commissioning of the USS Portland, and to honor the memory of her service and the hundreds of sailors and officers who served their country upon her in war and peace.

Comes from the House, **READ** and **ADOPTED**.

**READ** and **ADOPTED**, in concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**