

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1554

S. P. 561

In Senate, April 27, 1981

Filed by the Joint Standing Committee on Education pursuant to S. P. 580 of the 108th Legislature and approved for introduction by a majority of the Legislative Council under Joint Rule 18 and 2,500 ordered printed.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Revise the Education Law.

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

Sec. 1. 20 MRSA §§ 1-3456, as amended, are repealed.

Sec. 1-A. 20 MRSA §§ 3471-4758, as amended, are repealed.

Sec. 2. 20-A MRSA is enacted to read:

TITLE 20-A

EDUCATION

PART 1

GENERAL PROVISIONS

CHAPTER 1

GENERAL PROVISIONS

§ 1. Definitions

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

1. Academy. "Academy" means a private secondary school contracting with a school administrative unit to provide an educational program to the unit's

secondary school students at a cost not to exceed the maximum tuition rate established by the State.

2. **Approved private school.** “Approved private school” means a private school approved for attendance and tuition purposes under sections 155 and 4001.

3. **Board of directors.** “Board of directors” means the governing body with general policy-making authority for a school administrative district.

4. **Commissioner.** “Commissioner” means the Commissioner of Educational and Cultural Services.

5. **Community school district.** “Community school district” means a state approved unit of school administration composed of more than one municipality or school administrative district which may provide public education for any combination of grades.

6. **Cooperative board.** “Cooperative board” means the governing body with general policy-making authority for a vocational region.

7. **Cooperative committee.** “Cooperative committee” means the governing body for implementing a contract for secondary education under sections 4051 to 4054.

8. **Department.** “Department” means the Department of Educational and Cultural Services.

9. **District board of trustees.** “District board of trustees” means the governing body for specific limited purposes for a community school district, as provided under section 1705.

10. **District school committee.** “District school committee” means the governing body with general policy-making authority for a community school district.

11. **Elementary school.** “Elementary school” means a school that provides instruction in grades 1 through 8.

12. **Elementary student.** “Elementary student” means a student eligible for enrollment in an elementary school.

13. **Handicapped child.** “Handicapped child” means a child who is handicapped because of impairment in:

- A. Vision;
- B. Hearing;
- C. Speech and language;
- D. Cerebral or perceptual functions;
- E. Physical mobility functions;

**F. Behavior; or**

**G. Mental development or maturation.**

**14. Joint board. “Joint board” means the governing body for implementation of cooperative agreements among school administrative units.**

**15. Joint committee. “Joint committee” means the governing body of a school union.**

**16. Kindergarten. “Kindergarten” means a one or 2-year childhood education program immediately prior to grade one.**

**17. Limited English student. “Limited English student” means a student with a primary verbal language other than English.**

**18. Local allocation. “Local allocation” is defined in section 10203, subsection 13.**

**19. Major capital costs. “Major capital costs” is defined in section 10203, subsection 14.**

**20. Minor capital costs. “Minor capital costs” is defined in section 10203, subsection 15.**

**21. Municipal school unit. “Municipal school unit” means a state approved unit of school administration composed of a single municipality.**

**22. Parent. “Parent” means a parent or legal guardian of a child.**

**23. Preschool program. “Preschool program” means a childhood education program prior to kindergarten, or grade one in a school administrative unit without kindergarten.**

**24. Principal. “Principal” means the chief administrative officer of a school who manages and supervises the operation of the school and school property under the direction of the superintendent and school board.**

**25. Private school. “Private school” means an academy, seminary, institute or other private corporation or body formed for educational purposes.**

**26. Public school. “Public school” means a school that is controlled by a school board and funded primarily and directly by taxes.**

**27. School administrative district. “School administrative district” means a state approved unit of school administration composed of more than one municipality which must provide public education to all public school students in the district.**

**28. School administrative unit. “School administrative unit” means the state approved unit of school administration and includes a municipal school unit, school administrative district or community school district.**



29. School board. "School board" means the governing body with general policy-making authority for a school administrative unit or the governing body of an approved private school. It includes a school committee, board of directors, district school committee or cooperative board.

30. School committee. "School committee" means the governing body with general policy-making authority for a municipal school unit.

31. School officers. "School officers" means the superintendent and his assistants, and the principal and his assistants who have general supervisory authority over school operations.

32. School union. "School union" means a union composed of school administrative units joined for the purpose of providing limited joint supervisory administrative services, including a joint superintendent.

33. Secondary school. "Secondary school" means a school that provides instruction in any grade 9 through 12.

34. Secondary student. "Secondary student" means a student eligible for enrollment in a secondary school.

35. Special school district. "Special school district" means a school district created by private and special law for the purpose of constructing or adding to school buildings, but which does not have authority nor responsibility for operating public schools.

36. Special education services. "Special education services" means special services required to provide a handicapped child with an equal educational opportunity.

37. State allocation. "State allocation" is defined in section 10203, subsection 21.

38. State board. "State board" means the State Board of Education.

39. State and local allocation. "State and local allocation" is defined in section 10203, subsection 22.

40. State school funding. "State school funding" means the state payments to a school administrative unit under chapter 605.

41. Subdistrict. "Subdistrict" means a geographic area which is a subdivision of a school administrative unit for election purposes.

42. Superintendent. "Superintendent" means the chief executive officer of a school administrative unit.

43. Union school. "Union school" means a school operated by adjoining municipal school units under a joint agreement.

44. Vocational center. "Vocational center" is defined in section 5602, subsection 1.

45. Vocational education. “Vocational education” is defined in section 5602, subsection 2.

46. Vocational region. “Vocational region” is defined in section 5602, subsection 3.

47. Vocational satellite program. “Vocational satellite program” is defined in section 5602, subsection 4.

## **§ 2. Policy on public education**

The state policy on public education is as follows.

1. State responsibility for public education. In accordance with the Constitution of Maine, Article VIII, the Legislature shall enact the laws that are necessary to assure that all school administrative units make suitable provisions for the support and maintenance of the public schools. It is the intent of the Legislature that every person within the age limitations prescribed by state statutes shall be provided an opportunity to receive the benefits of a free public education.

2. Local control of public education. It is the intent of the Legislature that the control and management of the public schools shall be vested in the legislative and governing bodies of local school administrative units, so long as those units are in compliance with appropriate state statutes.

## **§ 3. Administrative procedures**

The procedures for administering this Title shall be as follows.

1. Adoption of rules. Rules adopted by the commissioner or the state board shall be adopted in accordance with the procedures of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

2. Adjudicatory proceedings. Adjudicatory hearings conducted by the commissioner, department or state board shall be conducted in accordance with the procedures of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

3. Licensing. Licenses issued by the commissioner, department or state board shall be issued in accordance with the procedures of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter V.

# **CHAPTER 3**

## **DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES**

### **SUBCHAPTER I**

#### **DEPARTMENT ADMINISTRATION**

**§ 101. Department**

The Department of Educational and Cultural Services is established for the following purposes.

**1. Purposes. The department is established to:**

- A. Supervise, guide and plan for a coordinated system of public education for all citizens of the State;**
- B. Interrelate public education to other social, economic, physical and governmental activities, programs and services;**
- C. Provide for a coordinated, integrated system of cultural resources' programs and projects;**
- D. Encourage and stimulate public interest in the advancement of education; and**
- E. Support cultural and historical heritage, institutions and activities at both the state and local level.**

**2. Composition. The department shall include the following:**

- A. The State Board of Education;**
- B. The Maine Education Council;**
- C. The Maine Commission for Higher Education Facilities;**
- D. The Maine Representatives to the New England Board of Higher Education;**
- E. The Maine School Building Authority;**
- F. The Governor Baxter School for the Deaf;**
- G. The Maine State Commission on the Arts and the Humanities;**
- H. The State Museum;**
- I. The Maine State Museum Commission;**
- J. The State Historian;**
- K. The Maine State Library; and**
- L. The Maine Historic Preservation Commission.**

**§ 102. Department organization; appointment of directors**

The department shall be organized as follows.

**1. Department organization. The department shall have the following bureaus:**

- A. The State Museum Bureau;**

- B. The Arts and Humanities Bureau;
- C. The Maine State Library Bureau;
- D. The Bureau of Vocational Education; and
- E. Any other bureau the commissioner establishes.

2. Appointment of directors. Each bureau shall be under the direction of a person appointed as follows.

A. The Director of the State Museum Bureau shall be qualified by training or by experience in museum work and shall be appointed by the Maine State Museum Commission with the approval of the commissioner. He shall serve for an indefinite term, subject to removal for cause. His compensation shall be fixed by the Governor.

B. The Director of the Arts and Humanities Bureau shall be qualified by training or by experience and shall be appointed by the Maine State Commission on the Arts and the Humanities with the approval of the commissioner. He shall serve for an indefinite term, subject to removal for cause. His compensation shall be fixed by the Governor.

C. The Director of the Maine State Library Bureau shall be qualified by training or by experience in library work and shall be appointed by the commissioner with the approval of the Governor. He shall be known as the State Librarian. He shall serve for an indefinite term, subject to removal for cause. His compensation shall be fixed by the Governor.

D. An associate commissioner shall direct the Bureau of Vocational Education. He shall be appointed by, and serve at the pleasure of, the commissioner.

E. The director of any other bureau shall be appointed by, and serve at the pleasure of, the commissioner. These positions shall be subject to the Personnel Law, except for the following:

- (1) The deputy commissioner;
- (2) The assistant to the commissioner;
- (3) The Associate Commissioner; Bureau of Instruction; and
- (4) The Associate Commissioner; Bureau of School Management.

## SUBCHAPTER II

### COMMISSIONER

#### § 151. Appointment; term

The appointment and term of service of the commission shall be as follows.

1. Appointment. The commissioner shall be appointed by the Governor from

a list of 3 candidates prepared by the state board. An appointment shall be subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature.

2. Term. The commissioner shall serve at the pleasure of the Governor.

§ 152. Office

An office shall be provided for the commissioner at the seat of government.

§ 153. Department duties

The duties of the commissioner shall be as follows.

1. General duties. The commissioner shall exercise the powers and perform the duties granted to the department in this Title. He shall devote all of his time to his duties.

2. Hiring. The commissioner may hire personnel that he deems necessary to fulfill the duties of the department. These personnel shall be subject to the Personnel Law, except as provided in section 102.

3. Delegation. The commissioner may authorize a designee to carry out his duties.

4. Specific duties. The commissioner also shall:

A. Coordinate, consolidate and prepare a budget for the department;

B. Transfer personnel within the department to ensure their efficient utilization;

C. Coordinate the purchase and use of all department equipment; and

D. Review the function and operation of the department to ensure that overlapping functions and operations are eliminated.

5. Pamphlet laws. The commissioner may:

A. Compile and distribute, in pamphlet form, to municipal and school officers copies of the amended school laws of the State; and

B. Prepare and issue biennially, circulars of information and advice to school officers, relating to new school laws.

6. Record books. The commissioner shall furnish to the school officers of each school administrative unit proper blank books in which they shall keep complete and itemized records of all matters relating to moneys appropriated, received and expended for schools. These books shall remain the property of the State.

7. Blanks. The commissioner shall prepare and print blank forms for all returns required by law or deemed by him to be necessary. He shall, on the first day of March, forward to each superintendent blanks for the annual school return

as provided in section 3203, and shall, on the first day of May, forward to each superintendent blanks for the returns required by sections 3204 and 3206.

8. **Reports.** The commissioner, annually, shall report to the Governor the result of his inquiries and investigations and the facts obtained from the school returns, with any suggestions and recommendations to improve public schools.

9. **Maintaining records.** The commissioner shall preserve all school reports of this State and of other states which he may receive, the returns from the various municipalities and institutions of learning and books, apparatus, maps, charts, works on education, plans for school buildings, models and other articles of interest to school officers and teachers as may be obtained without expense.

10. **Joining educational organizations.** The commissioner may join educational organizations and associations, both within and outside the State, when he judges membership will increase the efficiency or progress of education within the State.

11. **Limit on authority.** The commissioner may not exercise or interfere with the exercise of discretionary authority granted to the Maine State Museum Commission and the Maine State Commission on the Arts and the Humanities.

#### § 154. Educational duties

The commissioner shall have the following educational duties.

1. **General duty.** The commissioner shall generally supervise all public schools and shall advise and direct superintendents and school boards in the discharge of their duties, by circular letters and personal conference.

2. **Information.** The commissioner may obtain information on school systems of other states and countries and the condition and progress of public school education throughout the world. He may disseminate this information, with practical hints upon the conduct of schools, improved systems of instruction and the true theory of education by public addresses, circulars and articles prepared for the press. He also may disseminate this information by outlines, suggestions and directions concerning the management, discipline and methods employed in teaching, to teachers and school officers of the State. He shall do all in his power to awaken and sustain an interest in education among the people and to stimulate teachers to well directed efforts in their work.

3. **In-service education.** The commissioner may encourage in-service education and staff development for teachers in cooperation with school officials.

4. **Contracts for vocational education programs.** The commissioner may contract with a private school, which is serving one or more municipalities in lieu of a public secondary school, for the conduct of vocational courses which meet the same standards for approval as those conducted in public secondary schools. He may reimburse them for part of the cost of conducting approved vocational courses from funds available from the Federal Government for the purpose of vocational education.

5. **Appointment of supervisors.** The commissioner may appoint supervisors to assist and direct elementary and secondary teachers to work with school officers and school boards on request, and to perform other duties in the field of education. The salary and necessary traveling expenses of these supervisors shall be paid from an appropriation for that purpose.

6. **Control of gift-established schools.** The commissioner shall assume the control and management of all public schools established and maintained by gifts or bequests, when the gifts or bequests are conditioned on the commissioner assuming that control and management. He shall carry out the provisions on which those gifts or bequests are conditioned, when those conditions are approved by the Governor.

7. **Duties imposed by charters.** The commissioner shall perform all duties imposed on him by charter granted by the Legislature to an educational institution.

8. **Educational television programs.** The commissioner may produce or contract for educational television programs.

9. **Instruction conference.** Annually, the commissioner shall hold a conference for the instruction of superintendents.

10. **Agricultural education consultant.** The commissioner shall appoint, subject to the Personnel Law, an education specialist II or agricultural education consultant to be responsible for supervision of agricultural technical education, including agribusiness and agriculture's relation to the environment.

11. **Removal of approval.** If a school fails to meet requirements, the commissioner may hold an adjudicatory hearing and remove basic approval for cause.

## **§ 155. Curriculum**

The commissioner shall prescribe curriculum as follows:

1. **Basic curriculum.** The commissioner shall prescribe, by rule, the studies to be taught in the public schools and in approved private schools.

2. **Additional duties.** A school board of a public or approved private school may prescribe additional studies. On approval by the commissioner of a course arranged by the school committee, that course shall be the authorized course for that school.

3. **Required courses.** The following courses shall be required.

A. American history and civil government, including the Constitution of the United States and the Declaration of Independence, the importance of voting and the privileges and responsibilities of citizenship, shall be taught in all schools of elementary and secondary grades, both public and private, and shall be required for graduation from all elementary schools, both public and private.

B. A course in history, geography and the natural and industrial resources of Maine shall be taught in at least one grade from 7 to 12, in all schools, both public and private.

4. Private schools. The school officers of a private school founded after September 3, 1965, shall furnish the commissioner with a copy of the course of study arranged by them; except schools in good standing in the Independent Secondary School Division of the New England Association of Colleges and Secondary Schools.

5. Approval of schools. A school enrolling only pupils not residents of this State shall be subject to an annual review of its program. It shall be approved annually by the commissioner when it meets standards equivalent to those required of public and private schools in this State.

#### § 156. Languages of instruction

Languages of instruction to be used in all schools shall be as follows.

1. Basic language. The basic language of instruction in all schools, public and private, shall be the English language, except as provided in this section.

2. Foreign language instruction. A school may provide courses in foreign languages that are taught in those languages.

3. Bilingual education. Subject to the annual approval of the commissioner, the school committee of an administrative unit having children from non-English-speaking families may provide programs involving bilingual education techniques. These techniques shall be designed to provide children with educational experiences to enhance their learning. Bilingual instructors shall be subject to certification by the state board in both course content and language of instruction.

4. Transitional instruction. A school board may provide transitional instruction programs.

A. "Transitional instruction" means instruction given to a limited English speaking student for the purpose of enabling the student to be instructed in English within a reasonable length of time. Transitional instruction shall not include bilingual education programs, as defined in PL 90-247, Title VII, United States Code Annotated, Title 20, Section 880b-1, that is, programs which do not include students of limited English speaking ability.

B. Certified bilingual instructors shall not be required for the provisions of transitional instruction at any grade level.

#### § 157. Industrial education

The commissioner shall investigate methods of industrial education. He shall advise and aid in the introduction of industrial courses into all public secondary schools and approved private secondary schools. He shall report on all special



schools in which industrial education is provided. He shall inspect the courses of study offered in these schools and may approve these courses.

**§ 158. Driver education**

Driver education instruction in all schools shall be as follows.

1. **Purpose.** The purpose of this section is to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles, through classroom instruction and behind the wheel driving and observation in a dual control automobile, by encouraging school boards to provide this instruction in all the public secondary schools.

2. **Educational aid.** The commissioner shall employ necessary personnel, subject to the terms of the Personnel Law, and adopt or amend rules to carry out this section. He shall provide salaries and traveling expenses for a State Director of Driver Education, clerical assistance and supplementary teaching aids essential to the program.

3. **Purchase of vehicle.** Notwithstanding Title 5, section 7, the department may purchase a motor vehicle to be used principally in carrying out the purposes of this section.

4. **School administrative unit fee.** A school administrative unit may charge a fee, based on the per pupil cost, for a driver education course conducted after regular school hours during the school year.

5. **Contract authority.** A school administrative unit or private school may contract for driver education with any certified person or any commercial driver education school, provided that the instructor for the school shall be certified.

6. **Temporary certification.** If a certified instructor is not available within a school administrative unit, and if that unit requests it, the commissioner shall grant temporary driver education teacher certification to a person licensed by the Secretary of State to teach driver education. Requests for temporary certification shall be initiated by the administrative unit. A certificate may not be for more than one year.

**§ 159. High school equivalency certificates**

1. **Issue.** The commissioner may issue high school equivalency certificates to residents of the State:

A. Who are at least 18 years of age;

B. Who:

(1) Have not been in attendance for one year or more at a public school or a private school approved by a state department of education or accredited by a regional association of colleges and secondary schools; or

(2) Have completed a formal training program approved by the commissioner; and

C. Who demonstrate through procedures prescribed by the commission, that they have attained a general educational development comparable to that of secondary school graduates.

2. Certificate status. Certificates shall have the legal status of high school diplomas.

3. Fees. The commissioner may charge a fee sufficient to defray operating costs for a certificate. An honorably discharged or released veteran of the Armed Forces of the United States or a person judged by the commissioner to be economically disadvantaged shall be exempt from payment of a fee. That fee shall be paid from the income of the Permanent School Fund.

#### § 160. Inspection of schools

The Commissioner shall inspect schools as follows.

1. Request. The commissioner shall cause an inspection to be made of schools in a school administrative unit, and to report to the school board his findings and recommendations when he is:

- A. Petitioned by 60% of the parents of the children of one school;
- B. Requested by the school board or the superintendent of schools; or
- C. Petitioned by 20% of the legal voters of the unit.

2. Standards. The commissioner shall adopt or amend rules to establish standards of buildings, equipment organization and instruction. He shall give ratings based on these standards to schools that are inspected as their general condition, equipment and grade of efficiency may entitle them.

3. Extent of inspection. If a petition is received by the commissioner, he may determine the extent and conditions under which an inspection shall be made.

#### § 161. Medication

The commissioner may adopt or amend rules for the administration of medication in public or approved private schools. Medication may not be administered by unlicensed personnel at these schools except as provided by the written prescription of a physician or dentist or by the written permission of the parent or guardian of the individual receiving the medication.

#### § 162. Student performance evaluation plan

The student performance evaluation plan shall be as follows.

1. Plan. The commissioner may establish a statewide student performance evaluation plan. It shall be known as the "Maine Assessment of Educational Progress."

2. Unit participation. A school administrative unit may participate in the plan by paying to the department an annual fee as set by the commissioner. The department shall place this fee in a special, nonlapsing, revolving account.

3. Use of funds. The commissioner shall use the money in this account to pay for the costs of administering, analyzing and reporting the results of the evaluations performed on behalf of the participating units.

4. Education costs. Costs relating to the participation of a school administrative unit in the plan shall not be considered in calculations of the actual costs of education for purposes of reimbursement under chapter 605.

#### **§ 163. Compliance**

The procedures for dealing with school administrative units which are allegedly in noncompliance with the reporting and program requirements of this Title shall be as follows.

1. Reporting requirements. If, after giving due notice, the commissioner finds that a school administrative unit is not complying with the requirements of this Title, he may withhold state aid from that unit. The withholding may only continue for as long as necessary to achieve compliance. If compliance cannot be achieved by withholding state aid, the commissioner may refer the matter to the Attorney General.

2. Program requirements. A complaint that alleges that a school administrative unit is not in compliance with the program requirements of this Title or of rules shall meet the requirements for a petition under section 160.

A. If the commissioner receives a complaint and finds that probable cause for it exists, he shall refer the complaint to the state board for a public hearing. He shall, on behalf of the board, give notice and cause an adjudicatory hearing to be held.

B. The state board or its designee shall make findings of fact on the specific charges in the complaint and shall decide whether there are reasonable grounds to believe that a unit is in noncompliance.

C. If the state board decides there are no reasonable grounds to believe that a unit is in noncompliance, the commissioner shall refer the matter to the Attorney General.

3. Rules. This section shall apply only to rules adopted or amended by the department as authorized under this Title in the manner required under section 3.

### **CHAPTER 5**

#### **STATE BOARD OF EDUCATION**

#### **§ 201. State Board of Education**

The appointments, terms and expenses of the State Board of Education members shall be as follows.

1. Appointment. The state board shall consist of 9 members who shall be appointed by the Governor. Each appointment shall be subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature.

2. **Composition.** The membership of the state board shall be broadly representative of the public. A person who earns a substantial portion of his income as a teacher or as an administrator in an educational institution, other than as a college president, may not be eligible for appointment to or service on the state board.

3. **Expenses.** Members of the state board shall serve without pay, other than their actual expenses while carrying out the functions of the board.

4. **Term.** The term of office of each member shall be 5 years. Any vacancy shall be filled for the remainder of the unexpired term.

**§ 202. Organization; meetings**

The state board shall organize and meet as follows.

1. **Organization.** The state board shall organize annually by electing one of their members as chairman and one as vice-chairman. They may also elect other officers.

2. **Meetings.** Meetings of the state board shall be held quarterly in the offices of the department on call of the chairman or the commissioner on 5 days' written notice to members. If both the chairman and commissioner are absent, or refuse to call a meeting, any 3 members of the state board may call a meeting by similar notices in writing.

3. **Quorum.** A majority of the state board members shall be a quorum.

4. **Rules.** The state board may adopt or amend rules for meeting procedures and administration of its duties.

**§ 203. Seal**

The state board shall adopt a seal. The seal may be used by the commissioner to authenticate documents or copies of documents.

**§ 204. Records and reports**

The state board shall be responsible for the following records and reports.

1. **Records.** The state board shall keep in the office of the commissioner a complete record of the minutes of its meetings and other procedures.

2. **Report.** Biennially, on the first Monday of January, the state board shall make a report to the Governor which shall contain the report of the commissioner to the state board. The state board shall print this report and shall distribute it to the members of the Legislature and to school officers. The cost of printing the report shall be paid from the appropriation of the department.

**§ 205. Powers and duties**

The state board shall have the following powers and duties.

**1. General authority.** The state board shall have only the powers specifically stated in this Title.

**2. Advisory role.** The state board shall advise the commissioner concerning matters contained in this Title.

**3. Specific duties.** The state board shall have the following specific powers and perform the following duties:

- A.** Make recommendations to the Legislature for the efficient conduct of the public schools;
- B.** Approve the formation of school administrative districts;
- C.** Establish, maintain and operate schools of practical nursing;
- D.** Act on applications for additions to and dissolution of school administrative districts;
- E.** Adopt or amend rules on requirements for approval and accreditation of elementary and secondary schools;
- F.** Adjust the subsidy to a school administrative unit when the expenditures for education in the unit show evidence of manipulation to gain an unfair advantage or are adjudged excessive;
- G.** Grant permission for a school administrative unit to enter into an agreement for cooperative educational purposes;
- H.** Act on articles of agreement for creation of an interstate school district;
- I.** Develop and adopt a plan for the establishment of vocational centers;
- J.** Adopt or amend rules on standards for school construction;
- K.** Approve projects for state construction aid;
- L.** Approve the formation of Community School Districts;
- M.** Approve isolated secondary schools;
- N.** Obtain information regarding applications for granting degrees and make a recommendation to the Legislature;
- O.** Recommend funds to the Bureau of the Budget for equalization of educational opportunity;
- P.** Establish a student loan insurance program;
- Q.** Serve as state agency for administering federal funds; and
- R.** Under section 3, serve as an appeals board for unclassified personnel.

**4. Review of department decisions.** On the written request of an interested party, the state board shall review decisions made by the department acting

through the commissioner or his duly authorized representative under sections 3901, 4001 and 4002. The written request shall be filed within 30 days from the date of the department's decision.

5. Establishment of vocational-technical institutes. The state board may establish, maintain and operate vocational-technical institutes to promote specialized training for persons who give evidence of special aptitude or need and who desire specialized training designed specifically to train for service in trade, industry or commerce.

6. Overseeing school administrative districts. The state board shall oversee the establishment of school administrative districts as follows.

A. It shall develop and continually revise a state plan for the creation of efficient school administrative districts throughout the State. It shall use the plan for approving applications for the organization of school administrative districts.

B. It shall thoroughly study school conditions and needs, to determine plans for the establishment of appropriate school administrative districts in all organized territory.

(1) It shall report its actions and recommendations to each regular session of the Legislature on or before January 10th.

(2) The study and planning shall be directed by the state board; but shall include all possible participation and assistance by citizens and organizations at the local level.

(3) It is the intent of the Legislature that all school administrative units not in school administrative districts and operating secondary schools with less than 300 pupils in grades 9 through 12 shall submit plans for school district reorganization to the state board at least once in each 2-year period until the process of reorganization is completed.

C. It shall evaluate the effect of consolidation on valuation per pupil in the larger district as compared to the individual municipalities comprising the district. It shall make definite recommendations with respect to an eventual uniform minimum tax rate toward the support of a foundation program of education when these larger districts have been appropriately established throughout the State.

D. It shall survey, as completely as possible, school building needs and costs in the proposed districts which are required to effectively accomplish the organization of the districts.

E. It shall expedite the reorganization of administrative units by recommending to the Legislature establishment of school administrative districts which are not eligible for state board approval.

**F. It may appoint and employ, under the Personnel Law, personnel to carry out the duties imposed on it by this subsection.**

- (1) It may fix the duties of these employees.**
- (2) It may make funds available to pay for their salaries and expenses.**
- (3) It may use other state board employees to carry out this subsection.**

**§ 206. Certification of teachers**

**1. Certification.** The state board shall authorize the commissioner to certify teachers and other professional personnel for service in a public school or in an approved private school.

**2. Adult education.** The state board may authorize the commissioner to certify adult education teachers and other teaching and professional personnel in publicly supported education programs other than those in the public schools, post-high school institutions, colleges and universities.

**3. Semiprofessional personnel.** The state board shall authorize the commissioner to approve the employment of teacher aides, teacher assistants or other semiprofessional personnel for service in schools.

**4. Revocation.** The state board shall authorize the commissioner to seek a revocation of a certificate in the Administrative Court.

**5. Advisory board.** The state board shall have the advice of a board of qualified practitioners, teacher-educators and representatives of the public in matters of certification. The advisory board shall be selected and function in accordance with rules adopted or amended by the state board. At least 50% of the advisory board shall be made up of persons who are currently employed in teaching positions as defined in section 10001. The advisory board shall review proposed changes in rules which relate to certification and revocation of certification of school personnel.

**§ 207. Recommendations to Legislature**

The state board shall recommend to the Legislature any new legislation or amendments to existing legislation for the efficient conduct of the public schools.

**CHAPTER 7**

**POST-SECONDARY EDUCATION COMMISSION OF MAINE**

**§ 301. Establishment**

The Post-secondary Education Commission of Maine hereafter in this chapter called the commission, is established to exercise the powers and perform the duties set forth in this Title.

**§ 302. Short title**

This chapter may be cited as the PECOM Act.

**§ 303. Membership of commission**

The membership of the commission shall be as follows.

**1. Membership.** The Post-secondary Education Commission of Maine shall consist of 16 members drawn from the following groups.

**A.** Six members shall be members of principal public governing and administrative boards concerned with post-secondary education in Maine and the Maine Advisory Council on Vocational Education. The members shall be selected in accordance with the procedures of the bodies they represent. These positions shall be assigned as follows:

(1) Two positions for members of the Board of Trustees of the University of Maine;

(2) One position for a member of the state board;

(3) One position for a member of the Maine Advisory Council on Vocational Education;

(4) One position for a member of the Board of Trustees of the Maine Maritime Academy; and

(5) One position for a member of the Maine Delegation of the New England Board of Higher Education. This member shall not, at the time of appointment or during membership of the Post-secondary Education Commission of Maine, be the Chancellor of the University of Maine, the commissioner, or an administrative officer or member of the governing board of a public, private nonprofit or proprietary post-secondary educational institution in Maine.

**B.** Three members shall represent private nonprofit institutions of post-secondary education in Maine. These representatives shall be appointed by a subcommittee of the Higher Education Council in Maine composed of private college members. This subcommittee shall not be limited in its choice of representatives to members of the Higher Education Council of Maine, but also shall consider administrative officers and members of the governing boards of any private nonprofit institution of post-secondary education.

**C.** One member shall represent proprietary institutions of post-secondary education in Maine. This representative shall be appointed by the Governor and shall be a chief executive officer or member of the governing board of a federally recognized proprietary institution of post-secondary education, as defined in the United States Higher Education Act of 1965, PL 89-329, United States Code, Title 20, Section 1070(a), as amended.

**D.** Four members shall represent the general public. These members shall not be employees of, or members of the governing body of, a public, private nonprofit or proprietary institution of post-secondary education in this State.



Representatives of the general public in this State shall be appointed by the Governor.

E. The Chancellor of the University of Maine and the commissioner shall serve as ex officio members of the commission.

2. Terms. Each member shall be appointed for a term of 4 years. A member shall serve until his successor has been duly appointed and qualified.

3. Eligibility. A position shall become vacant if the member appointed to it ceases to meet the qualifications for that position.

4. Vacancy. If a vacancy occurs prior to the expiration of a term, an eligible person may be appointed by the appointing authority to serve for the remainder of the unexpired term.

5. Expenses. Members shall serve without pay, but shall be reimbursed for travel and other expenses incurred in the performance of their official duties.

#### § 304. Appointment of the chairman and vice-chairman

The chairman and vice-chairman of the commission shall be appointed by the members of the commission from among the 4 public members. The term of the chairman and vice-chairman shall be coterminous with their terms of the commission.

#### § 305. Meetings

Commission meetings shall be held at least quarterly or upon call of the chairman on 5 days' written notice to the members. If the chairman is absent or refuses to call a meeting, any 4 members may call a meeting by similar notices in writing.

#### § 306. Staff

The appointment of an executive director and the employment and retirement status of other staff shall be as follows.

1. Executive director. The commission may appoint an executive director, who shall serve at the pleasure of the commission and shall maintain offices in Augusta. The compensation of the executive director shall be fixed by the Governor.

2. Other staff. The commission may employ other professional and clerical staff.

3. Retirement benefits. A commission employee shall be eligible to become a member of the State Retirement System.

#### § 307. Powers and duties

The commission shall:

1. Comprehensive planning. Conduct comprehensive planning for post-

secondary education in Maine, including planning in cooperation with the New England Board of Higher Education and other New England states. This planning shall assure the development, maintenance and accessibility of diversified post-secondary educational opportunities of high quality for Maine citizens. It shall seek efficient use of limited resources through promotion of voluntary coordination and cooperation among institutions and educational sectors and through encouragement of efforts to avoid unnecessary duplication of institutions, programs and facilities. This comprehensive planning shall take into consideration the educational, cultural, social and economic contributions to Maine of all of the post-secondary educational institutions in the State. It is the intent of the Legislature that this comprehensive planning shall lead to a cohesive system of post-secondary education involving all of the public, private nonprofit and proprietary post-secondary educational institutions in the State;

2. State commission under § 1202 of Higher Education Act. Serve as the state commission as required under the United States Code, Section 1202, Higher Education Act of 1965, Public Law 89-329, Title 20, United States Code, Section 1141 et seq, as amended;

3. Annual report. Present a report annually, before December 31st, to the Governor and the Legislature on "The State of Post-secondary Education in Maine," in which it reviews the comprehensive planning for the previous year and makes recommendations based on this planning which might lead to the maximum realization of the objectives of subsection 1; and

4. Studies. Undertake studies on post-secondary education in this State as requested by the Legislature and the Governor and provide reports and information to legislative committees as requested.

#### § 308. Collection of information

The commission may request institutions of post-secondary education in Maine to submit information reasonably necessary for the commission to carry out responsibilities defined by federal and state law and to perform effective comprehensive planning. This authority shall be limited by safeguards necessary to protect the confidentiality of information related to specific persons.

#### § 309. Limitations of the authority of commission with respect to institutions

The provisions of this Title related to the authority, responsibilities and functions of the commission may not be construed as authorizing the commission to infringe on or substitute its authority for or otherwise modify the governing authority of any institution of post-secondary education.

#### § 310. Designation of PECOM as the state agency or state commission of the purposes of certain federal programs

The Post-secondary Education Commission of Maine shall be designated as the state agency or state commission for the following purposes.

1. **Designation.** The commission is designated as the state commission as required by the United States Code, Section 1202, subsection (a) of the Higher Education Act of 1965, as amended, Title 20, United States Code 1142a.

2. **Powers.** The commission may develop plans, rules and procedures, and establish or designate advisory committees, councils or task forces to carry out the requirements of the federal laws and other programs for which the commission is assigned responsibility under this section.

3. **Other functions.** The commission may undertake other functions assigned by federal law or regulation to state commissions designated pursuant to the United States Code, Section 1202 of the Higher Education Act of 1965, as amended, Title 20, United States Code, Section 1142a.

4. **Funds.** The commission may accept and disburse all moneys in accordance with the United States Code, Section 1202, the Higher Education Act of 1965, as amended, for which the commission is assigned responsibility under this section.

## CHAPTER 9

### THE MAINE STATE

#### COMMISSION FOR HIGHER EDUCATION FACILITIES

##### § 401. Purpose

The purpose of this chapter is to authorize the Maine State Commission for Higher Education Facilities to conduct either directly or through other appropriate agencies or institutions, comprehensive planning to assist the institutions of higher education in Maine to construct needed classrooms, laboratories and libraries in order to accommodate mounting student enrollments and to meet demands for skilled technicians and for advanced graduate education as set forth under the United States Higher Education Facilities Act of 1963, Public Law 88-204, as amended by Section 3 of Public Law 89-752.

##### § 402. Duties

The Maine State Commission for the Higher Education Facilities may establish plans and rules or amend existing plans and rules in accordance with the United States Higher Education Facilities Act of 1963, Public Law 77-204, as amended by Section 3 of Public Law 89-752, and requirements of the United States Government established under that Act, as amended. It may also accept and disburse all moneys in accordance with that Act.

## CHAPTER 11

### COMPACT FOR EDUCATION

#### SUBCHAPTER I

##### COMPACT

##### § 501. Purpose and policy — Article I

**1. Purpose. It is the purpose of this compact to:**

**A. Establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the state and local levels;**

**B. Provide a forum for the discussion, development, crystalization and recommendation of public policy alternatives in the field of education;**

**C. Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of State Government and local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education; and**

**D. Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.**

**2. Policy. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.**

**3. Interrelationships. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own education systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.**

**§ 502. State defined — Article II**

**As used in this compact, "state" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.**

**§ 503. Commission — Article III**

**The Education Commission of the States is established as follows.**

**1. Commission established. The Education Commission of the States, hereafter in this chapter called "the commission" is hereby established.**

**2. Membership. The commission shall consist of 7 members representing each party state: One member shall be the Governor; 2 shall be members of the Legislature selected by its respective houses and serving in such manner as the Legislature may determine; and 4 shall be appointed by and serve at the pleasure**

of the Governor, unless the laws of the State otherwise provide. If the laws of a state prevent legislators from serving on the commission, 6 members shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principles for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be, not to exceed, 10 nonvoting commissioners selected by the steering committee for terms of one year. These commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

3. **Voting.** The members of the commission shall be entitled to one vote each on the commission. No action of the commission may be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor in the action. Action of the commission shall be only at a meeting at which a majority of the commissioners are present.

4. **Meetings.** The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained in those bylaws, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to this Article.

5. **Seal.** The commission shall have a seal.

6. **Organization.** The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice-chairman and a treasurer. The commission shall provide for the appointment of an executive director. The executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

7. **Personnel.** Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, subject to the approval of the steering committee, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The

commission in its bylaws shall provide for the personnel policies and programs of the commission.

8. **Services.** The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of those governments, or from any agency of 2 or more of the party jurisdictions or their subdivisions.

9. **Grants.** The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm association, foundation or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this subsection or services borrowed pursuant to subsection 8 shall be reported in the annual report of the commission. The report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed, and the identity of the donor or lender.

10. **Facilities.** The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold and convey real and personal property and any interest therein.

11. **Bylaws.** The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form, and shall file a copy of those bylaws and a copy of any amendment to those bylaws with the appropriate agency or officer in each of the party states.

12. **Reports.** The commission annually shall make to the Governor and Legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

#### § 504. Powers — Article IV

In addition to authority conferred on the commission by other provisions of the compact, the commission may:

1. **Information and data.** Collect, correlate, analyze and interpret information and data concerning educational needs and resources;

2. **Research.** Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration and instructional methods and standards employed or suitable for employment in public educational systems;

3. **Proposals.** Develop proposals for adequate financing of education as a whole and at each of its many levels;

4. **Further research.** Conduct or participate in research of the type referred

to in this Article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education and other agencies and institutions, both public and private;

5. Policies and plans. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment of public education, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials; and

6. Other necessary things. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

#### § 505. Cooperation with Federal Government — Article V

1. Federal membership. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the commission, by, not to exceed, 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the Federal Government, but no representative may have a vote on the commission.

2. Information. The commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

#### § 506. Committees — Article VI

1. Steering committee. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of 32 members which, subject to this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission.

A. One-fourth of the voting membership of the steering committee shall consist of governors, 1/4 shall consist of legislators and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote.

B. The voting members of the steering committee shall serve for terms of 2 years, except that members elected to the first steering committee of the commission shall be elected as follows: Sixteen for one year and 16 for 2 years.

C. The chairman, vice-chairman and treasurer of the commission shall be

members of the steering committee and, anything in this subsection to the contrary notwithstanding, shall serve during their continuance in these offices.

D. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuring meeting following the occurrence of any vacancy shall fill it for the unexpired term.

E. No person may serve more than 2 terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the 2-term limitation.

2. Advisory and technical committees. The commission may establish advisory and technical committees composed of state, local and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to 2 or more of the party states.

3. Other committees. The commission may establish such additional committees as its bylaws may provide.

#### § 507. Finance — Article VII

1. Budget. The commission shall advise the Governor, or designated officer or officers of each party state, of its budget and estimated expenditures for such period as may be required by the laws of the party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

2. Apportionment. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

3. Obligations. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

4. Accounts. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. All receipts and disbursements of funds handled by the commission shall be audited



yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

5. Access to accounts. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

6. Audit or inspection. Nothing contained in this chapter shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

#### § 508. Eligible parties; entry into and withdrawal — Article VIII

1. Eligibility. This compact shall have a eligible parties all states, territories and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

2. Entry. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

3. Adoption of compact. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make this state a party only until December 31, 1969. During any period when a state is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission equitable share of the financial support of the commission from any source available to him.

4. Withdrawal. Except for a withdrawal effective on December 31, 1969 in accordance with subsection 3 any party state may withdraw from this compact by enacting a statute repealing the same, but no withdrawal may take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

5. Liability. No withdrawal may affect any liability already incurred by or chargeable to a party state prior to the time of that withdrawal.

#### § 509. Construction and severability — Article IX

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state of the United States, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the

remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

## **SUBCHAPTER II**

### **ADMINISTRATIVE PROVISIONS**

#### **§ 551. Maine Education Council**

1. Council established. There is established the Maine Education Council composed of the members of the Education Commission of the States representing this State, and 7 other persons appointed by the Governor.

2. Appointments. The Governor shall appoint: two members for one year; 2 members for 2 years; and 3 members for 3 years. Upon the expiration of each term the appointment shall be for 3 years. Vacancies shall be filled for the full term. The appointees shall be selected so as to be broadly representative of professional and lay interest within this State having the responsibilities for knowledge with respect to, and interest in, educational matters. The chairman shall be designated by the Governor from among its members.

3. Meetings. The council shall meet on the call of its chairman or at the request of a majority of its members, but in any event the council shall meet not less than 3 times in each year. The council may consider any and all matters relating to public educational policy and any matters relating to recommendations of the Education Commission of the States and the activities of the members in representing this State thereon.

#### **§ 552. Members of Legislature, selection and tenure**

The 2 members of the Legislature on the Education Commission of the States shall be appointed by the presiding officer of the respective House and shall serve on the commission during such time each is a member of his respective House.

#### **§ 553. Bylaws filed**

Pursuant to Article III, the commission shall file a copy of its bylaws and any amendment thereto with the office of the commissioner.

## **CHAPTER 13**

### **ADVISORY COMMITTEE ON MAINE**

#### **PUBLIC BROADCASTING**

#### **§ 601. Committee; expenses**

1. Committee. The Advisory Committee on Maine Public Broadcasting shall facilitate the development of public broadcasting in the State.

2. **Membership.** The committee shall consist of 7 members to be appointed by the Governor for a full term of 5 years. One member shall be a representative of the department. One member shall be a representative of the University of Maine and the remaining members shall be citizens of the State. A vacancy in the membership shall be filled for the unexpired term by appointment by the Governor.

3. **Expenses.** Members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

**§ 602. Organization; quorum**

The committee shall elect a chairman, secretary, vice-chairman and treasurer, each of whose terms of office shall be 2 years. The committee shall adopt bylaws any rules for the calling and holding of meetings and the administration of its affairs. A majority of the membership of the committee shall constitute a quorum.

**§ 603. Powers and duties**

The Advisory Committee on Maine Public Broadcasting may act as follows:

1. **Recommendations.** To recommend to the trustees of the University of Maine relating to the appointment of professional, clerical or other assistants, location of public broadcasting stations and construction and equipment of those stations necessary to carry out the purposes of this chapter; and

2. **Programs.** To advise the trustees of the University of Maine for the public broadcasting programs to be transmitted by the network.

**§ 604. Gifts**

The Governor may accept a gift of money, real or personal property, from any source, and grants-in-aid from the Federal Government to assist in carrying out the purposes of this chapter.

**§ 605. Construction of statewide network**

The University of Maine may acquire real estate, construct, operate, manage and equip radio, transmission and microwave television facilities and interconnect with any other radio or television network or station within or without this State for the purpose of providing a statewide public broadcasting network for the transmission of public broadcasting to pupils in the schools, colleges, university and adult audiences throughout the State. The University of Maine may enter into contracts for the construction of those facilities, contracts for personal services necessary for the management and operation of those facilities and any other contracts deemed necessary to carry out the purposes of this chapter.

**PART 2**  
**SCHOOL ORGANIZATION**  
**CHAPTER 101**  
**GENERAL PROVISIONS**  
**SUBCHAPTER I**  
**PURPOSES**

**§ 1001. Organization of school administrative units**

The policy of the State in the organization of school administrative units is as follows.

1. Declaration of policy. It is the declared policy of the State to encourage the development of school administrative units of sufficient size to provide:

- A. A more equalized educational opportunity for pupils;
- B. Satisfactory school programs;
- C. A greater uniformity of school tax rates among the units; and
- D. A more effective use of the public funds expended for the support of public schools.

2. Organization of schools. The basic responsibility for educating students rests with the individual municipalities. Municipalities may share this responsibility through a variety of mechanism. They may form cooperative agreements for limited educational objectives, school unions for joint superintendency, union schools for jointly governing a school, community school districts for jointly governing an agreed on group of grade levels in the district or a school administrative district for governing educational services for all public school students in the district.

**SUBCHAPTER II**  
**SCHOOL BOARDS**

**§ 1051. Prohibited appointments**

The following provisions apply to members of a school board.

1. Definition. "Employee" means a person regularly employed on a weekly basis regardless of remuneration or the number of hours worked.

2. Employment restriction. A member of a school board or his spouse may not be employed as an employee in a public school within the jurisdiction of the school board of which he is a member.

3. Appointment restriction. In a school administrative district, a member of the board of directors may not, during the term for which he is elected and for one

year thereafter, be appointed to a civil office for profit or employment which has been created or the compensation increased by the action of the board of directors during the member's term.

**§ 1052. Void contracts**

A contract made by the school board during the term of a member who is pecuniarily interested in that contract, either directly or indirectly, shall be void, unless the school board has advertised for sealed bids for that contract, and that advertisement for sealed bids has been published at least 5 days prior to the date set for closing of bids in a newspaper having general circulation within the school administrative unit.

**§ 1053. Bids**

Bids to a school administrative district or vocational region shall meet the following requirements.

1. **Written.** They shall be in writing, sealed, with the outside envelope or wrapper plainly marked "Bid, not to be opened until (with appropriate date inserted)." They shall be mailed to or filed with the superintendent.

2. **Time.** A director or employee of the school administrative district or vocational region may not open a bid until the appointed time.

3. **Public opening.** At the time and place stated in the public notice, all bids shall be opened publicly by the superintendent or, in his absence or disability, by a school board member designated for the purpose by the chairman of the school board. Bid openings shall be open to the public.

4. **Reading.** If a citizen who is not a school board member or unit employee, or a representative of the press is present, bids shall at that time either be made available for examination by him or shall be read aloud in a manner to be heard plainly by those in attendance.

**SUBCHAPTER III  
SUPERINTENDENTS**

**§ 1101. Selection of superintendents**

The following provisions shall apply to the selection of superintendents.

1. **Eligibility requirements.** A person may be eligible to become superintendent only if he holds a state certificate of superintendence grade. A person may not be eligible to become superintendent if he is a member of the school board which selects him.

2. **Appointment.** The school board shall select the superintendent on notification by the commissioner. It shall meet during December of the year preceding the expiration of the superintendent's contract, at a day and place determined by the chairman. At the meeting or as soon thereafter as possible, the school board shall choose a superintendent.

3. Term. The superintendent's term shall be established by the school board.

A. The term may not exceed 5 years.

B. The term shall expire on June 30th of the year of expiration.

4. Failure to select. If the school board fails to choose a superintendent by June 30th, the school board may appoint a competent and qualified agent, with the advice and consent of the commissioner, to serve in that capacity until his successor is chosen and qualified.

5. Notice to the commissioner. Annually and when a new superintendent is chosen, the chairman and secretary of the school board shall certify under oath to the commissioner, on forms provided by him, all facts relating to the district's selection of a superintendent.

6. Service. The school board shall determine the minimum number of visits to be made by the superintendent each term to each school in the school administrative units.

In community school districts, the district school committee shall also determine the relative amount of service to be performed by the superintendent in each school administrative unit.

7. Office. The school board shall provide for an office for the superintendent, office assistants, supplies, utilities and other office expenses.

8. Salary. The school board shall fix the superintendent's salary.

9. Selection by certain units. The following provisions shall apply to selection of superintendents by certain units.

A. In a community school district, the district school committee may perform the functions of a school board.

B. In a school union, the joint committee shall perform the functions of a school board.

C. In a school administrative unit governed by a private and special law that provides for the selection of a superintendent, the governing board shall select a superintendent in the manner provided in that law.

#### § 1102. Discharge

A school board may discharge a superintendent before the expiration of his term.

1. Requirements. He may be discharged only:

A. For cause;

B. After due notice and investigation; and

C. By a majority vote of the full membership of the school board.

2. **Salary.** On discharge, the superintendent's salary shall cease.

3. **Appeal.** A superintendent may appeal the school board's decision to the commissioner. The commissioner shall hold a public hearing as part of the appeal.

**§ 1103. Superintendents, powers and duties**

A superintendent shall be ex officio, secretary of the school board and school building committee. He shall perform duties as the school building committee or school board direct.

1. **Records, orders, vouchers.** He shall:

A. Keep a permanent record of all the votes, orders and proceedings;

B. Place all orders for materials and supplies purchased by vote of the school building committee or school board;

C. Keep all financial records and accounts; and

D. Issue vouchers showing the correctness of bills contracted on account of school appropriations. A bill may not be allowed for payment by the municipal officers unless:

(1) They have been approved by the school board; or

(2) In school administrative districts, approved by a finance committee.

2. **Inspect schools; annual report.** He shall inspect the schools and review the general operating rules, the rules for discipline and the proficiency of the pupils.

A. He shall visit each school at least the minimum number of times each term required by the school board.

B. Annually, he shall make a written report of the condition of the schools for the prior year including a statement of the condition of school buildings, the progress made by the pupils and an evaluation of the methods of instruction and government. He shall send a copy to the commissioner.

3. **Financial and building report.** He shall keep an accurate account of school finances and send a written report, at least once a term, to each school board member. The report shall include a financial statement and a statement of the repair, cleanliness and sanitary arrangements of school buildings and outbuildings.

4. **Selection and purchase of textbooks.** He shall select textbooks, supplies and apparatus with the approval of the school board. He shall make all these purchases under rules adopted by the school board.

5. **Distribution and accounting of supplies.** He shall assure that all necessary apparatus and supplies are seasonably distributed to each school, accurately accounted for and economically used.

6. **Display of flags.** He shall ensure that the United States and Maine flags are displayed from public school buildings on appropriate occasions. He shall report annually to the school board the amount necessary to furnish the public schools with suitable flags and flagstafs.

7. **Enforce rules of the school board.** He shall enforce or cause to be enforced all rules of the school board.

8. **Full-time employment.** He shall devote his entire time to superintendence in the school administrative unit which employs him. He may perform educational service outside of his unit with the approval of the commissioner and with the consent of the school board employing him.

§ 1104. **Teachers; hiring; dismissal**

The superintendent shall nominate all teachers, under rules governing salaries and qualifications adopted or amended by the school board. If the school board approves a nomination, he may employ that teacher for a term approved by the school board.

1. **Probation and subsequent contracts of teachers.** After a probationary period of not more than 2 years, a contract of a teacher shall be for not less than 2 years.

2. **Automatic contract extension.** Unless a teacher receives written notice to the contrary at least 6 months before the termination date of the contract, the contract shall be extended automatically for one year and for subsequent years. The right to extend the period of time through a new contract is reserved to the contracting parties.

3. **Dismissal.** Just cause for dismissal or nonrenewal may be a negotiable item in accordance with the procedure set forth in Title 26, chapter 9, for teachers who have served beyond the probationary period.

4. **Hearing after notice.** After a probationary period of 2 years, a teacher who receives notice that his contract is not going to be renewed may, during the 15 days following the notification, request a hearing with the school board.

A. He may request the reasons for his dismissal.

B. A hearing shall be private except by mutual consent. The parties may be represented by counsel.

C. A hearing shall be granted within 30 days of the receipt of the teacher's request.

5. **Terminate contract; change in conditions.** The school board may terminate a contract, after due notice, if changes in local conditions warrant the elimination of the teaching position for which the contract was made.

6. **Substitute appointments.** If the superintendent and the school board fail to legally appoint a teacher, a commissioner may appoint a substitute teacher. The substitute teacher shall serve until a teacher is legally appointed.



7. Supervision of teachers. The superintendent shall direct and supervise the work of all teachers in the school administrative unit.

#### **SUBCHAPTER IV**

#### **TRANSPORTATION AND BOARD**

##### **§ 1151. Transportation**

A superintendent, with the approval of the school board, shall provide transportation for public school students residing in the unit as follows.

1. Elementary students. Elementary students shall be transported to and from the nearest suitable school.

2. Secondary students. Secondary students shall be transported to and from the nearest suitable school.

A. If a school administrative unit does not maintain a secondary school, secondary students shall be transported to and from the school they attend under contract with the unit.

B. A school administrative unit shall pay transportation charges over regular transportation lines for secondary students who reside on islands if those islands are:

- (1) Within the school administrative unit;
- (2) Without a secondary school; and
- (3) Served by regular transportation lines.

The charges shall not exceed regular fares. The transportation line and the school board may by agreement establish school fares for these students at less than the regular fare.

C. A school board may provide transportation for a student attending another secondary school.

3. Community school district. A community school district may provide transportation for elementary and secondary students under an agreement between the district school committee and the member school administrative units.

4. Special education students. If a school administrative unit does not provide special education services, it shall provide transportation for special education students to and from classes conducted by a public or private school.

5. Temporary residents and residents on state-owned property. The commissioner shall reimburse a school administrative unit for approved transportation of students who reside on state-owned property located in towns of less than 100 residents or who are temporary residents, if those students reside more than 2 miles from the school.

A. A superintendent, with the approval of the school board, shall report these students to the commissioner. The report shall include any other information the commissioner requires.

B. The commissioner may direct the unit to provide transportation or he may provide payments for boarding the student.

C. On receiving a bill of expenses for transportation or board from a school administrative unit, the commissioner shall reimburse it for those expenses in December, from the department appropriation for that purpose.

6. Remote location. If a student resides in a location remote from and inaccessible to schools or public highways, his parent shall be responsible for providing transportation to a public highway or paying board for him within walking distance of a school.

7. Adult education. A school administrative unit may provide transportation for adults to and from adult education programs.

8. Vocational education. The following provisions shall apply to transportation for vocational education.

A. The sending school administrative unit shall provide transportation for its students to and from a vocational center or vocational satellite program.

B. The cooperative board shall provide for the transportation of students to and from vocational region programs. Transportation may not be provided outside the vocational region, unless approved by the commissioner.

9. Duration. Transportation shall be provided for the number of weeks that the school operates.

10. Minimum distances. A school board may establish the distance from a school that students must reside to receive transportation.

11. Safety. Transportation provided shall conserve the comfort, safety and welfare of the students conveyed. A responsible driver shall be in charge of the vehicle and shall have control over the conduct of the students while they are transported.

12. Contract. A school administrative unit may contract for transportation. A contract may not exceed a period of 5 years.

13. Cost of service and equipment. Transportation services and the purchase of new buses shall be accomplished in the most economical manner consistent with the welfare and safety of students. Transportation expenditures shall be an expense of transportation operations of a school in a school administrative unit.

14. New bus purchases. School bus purchases, contracts or leases shall be subject to approval by the commissioner.

A. The commissioner may not approved, in one year, more than \$4,000,000 in

expenditures for school bus purchases for transporting elementary and secondary students. Annually, the Legislature shall review this limitation.

B. The commissioner shall encourage school administrative units, whenever possible, to purchase school buses from current funds rather than from short-term loans.

C. A school board may obtain a short-term loan to purchase school buses if it is approved by the unit's legislative body. The term of a loan may not exceed 3 years, except a loan during the unit's first year of operation may not exceed 5 years.

D. Expenditures for approved school bus purchases may not be included in expenditure limitations placed on school administrative units under this Title.

#### § 1152. Board

1. Elementary pupils. In place of transportation, the school board may authorize the boarding of a student. That board:

A. Shall not exceed \$40 per week; and

B. Shall be at a suitable place near an established school.

2. Island secondary students. A school administrative unit which includes a coastal island which has no highway connection to the mainland and which does not maintain an approved secondary school shall pay for board for a student whose parent resides on the island.

A. Board shall not exceed \$40 per week or a prorated amount for a fraction of a week. It shall be paid only if:

(1) The commissioner determines that it is necessary that the student board away from home to attend a secondary school;

(2) The boarding arrangement is approved by the school board; and

(3) The commissioner approves the boarding arrangement in advance on a from provided for the purpose.

B. The Town of Cumberland may pay the tuition, transportation or board of a student whose parent resides on Chebeague Island for attendance at an approved secondary school.

C. Payment for board shall be made on receipt of a satisfactory attendance record at the end of a period no longer than one month. The payment shall be charged to the secondary school transportation account.

D. The commissioner shall apportion to the school administrative unit a sum equal to 1/2 the amount paid for boarding students if:

(1) The unit is required to pay board for the students;

(2) It has paid board for the students; and

(3) The superintendent, before September 1st annually, has made a return for the preceding school year, under oath, to the commissioner on a form provided to him showing:

- (a) The name and residence of each student for which board was paid;
- (b) The amount paid; and
- (c) The name and location of the school attended.

## SUBCHAPTER V

### COOPERATIVE AGREEMENTS

#### § 1201. Cooperative agreements

School administrative units may enter into a cooperative agreement to carry out a specified educational function.

1. Agreements requiring local funding. The following provisions shall apply to agreements requiring local funding.

A. The school boards shall file an application with the state board in a form and containing the information required by the state board.

B. The state board shall prepare the agreement. It shall submit to the legislative body of each school administrative unit an article that:

- (1) Specifies the specific educational functions to be accomplished;
- (2) The method of sharing costs in carrying out the functions;
- (3) The number of board members to represent each unit on the joint board;
- (4) The method of dissolving the agreement;
- (5) The procedure for disposing of real and personal property; and
- (6) Other specifications which may be necessary for the agreement.

C. The voters shall vote in accordance with Title 30, section 2052. The voting at meetings held in towns shall be conducted in accordance with Title 30, sections 2061 to 2064, even though the town has not accepted the provisions of Title 30, section 2061. The meetings in school administrative districts shall be called in accordance with sections 1551 to 1554. In cities, the acceptance or rejection of the agreement shall be by the legislative body.

D. The agreement shall be approved by a majority vote in each of the school administrative units involved.

E. If approved, the state board shall issue a certificate to the joint board created under the agreement.

2. Cooperative agreements not requiring local funds. The following provisions shall apply to agreements that do not require local funding.

- A. The superintendents of the school administrative units shall jointly call one or more joint meetings of the school boards of the units to establish the terms and conditions of the agreement under which the specific educational functions shall be accomplished. The agreement shall include a joint board.**
- B. The agreement shall be approved by the school board in each school administrative unit by a majority vote.**
- C. The agreement also shall be approved by the state board.**
- 3. Membership on the joint board. Membership on the joint board shall consist of a superintendent of each participating school administrative unit and members from each school board chosen by its membership.**
  - A. If the agreement requires local funds, the number of board members shall be determined by the agreement.**
  - B. If the agreement does not require local funds, there will be 2 school board members from each school board.**
- 4. Authority of the joint board. The joint board:**
  - A. Shall have the authority specified in the agreement;**
  - B. May accept and administer federal funds for the specific educational function which is authorized by the agreement;**
  - C. Shall annually determine the cost of carrying out the specific educational function;**
  - D. Shall submit the proposed budget, if any, to each participating school board;**
  - E. Shall seek approval of the budget by a majority of the full membership of each of the school boards;**
  - F. Shall require each participating school administrative unit to place on its budget and appropriate that unit's share of an approved budget;**
  - G. Shall annually elect a chairman, vice-chairman, secretary and treasurer; and**
  - H. Shall establish an executive committee, composed of its officers, with the power to approve payrolls and otherwise carry out the directions of the joint board.**
- 5. Duties of the officers of the cooperative board. The secretary shall keep accurate records of meetings of the joint board. The treasurer shall render account of all funds received and of all bills paid at the direction of the joint board. He shall annually cause an audit of the accounts to be accomplished. The audit shall be filed with the chairman of the joint board and with the state board.**
- 6. Report. The joint board shall file semiannual progress reports with the**

participating school boards. The reports shall include the educational progress and the financial status of the cooperative venture in accordance with the terms of the cooperative agreement.

7. Finances. The following provisions shall apply to financing under a cooperative agreement.

A. The commissioner may pay school construction aid on a project approved as a result of a cooperative agreement. The aid shall be computed in the same manner as for a community school district as set forth in Title 20, sections 3457 - 3460.

B. The joint board may acquire, lease, hold and dispose of real and personal property used in the cooperative undertaking.

C. If the cooperative agreement requires local funding, each participating school administrative unit shall place in its budget and appropriate its share of the budget approved by the joint board and the unit's school board.

8. Status. A joint board shall be a quasi-municipal corporation.

## SUBCHAPTER VI

### CONDEMNATION

#### § 1251. Authority for condemnation

1. Conditions. A school administrative unit may condemn land for the construction or enlargement of school buildings and playgrounds when:

A. The owner of the property refuses to sell;

B. The parties are unable to agree on a price within 60 days of the first offer; or

C. The owner of the property resides outside the State and has no authorized agent or attorney within the State.

2. School administrative units. The following school administrative units may condemn land for school construction:

A. Municipalities;

B. School administrative districts; and

C. Community school districts.

3. Restrictions. A school administrative unit may not condemn lots exceeding 25 acres for one project.

#### § 1252. Procedures

1. Vote. A school board may condemn land for school construction when a location has been designated by:

A. A vote of the municipal legislative body at a meeting called for that purpose;

B. A vote of the legal voters of a school administrative district, on the recommendation of the board of directors; or

C. A vote of the legal voters of a community school district, on the recommendation of the district school committee.

2. Appraisal. Damages for condemnation shall be determined:

A. As provided for laying out town ways for municipalities; or

B. As provided for laying out county ways in Title 23, sections 2052 and 2054, for school administrative districts and community school districts, except that notice need not be given to the Department of Transportation.

3. Payment of damages. The school board may take lots for school construction after payment of these damages. If the owner of the condemned property resides outside the State the damages shall be deposited in the municipal treasury for municipalities and in the county treasury for other school administrative units.

4. Description. The school board shall cause a plan and description of the lots, as they have laid them out, to be recorded in the registry of deeds where the land lies, within 30 days of payment or deposit of damages.

5. Notice. The school board shall serve on the owner a certified copy of the vote directing the condemnation. This notice shall be served according to the Maine Rules of Civil Procedure.

#### § 1253. Reversion

If land taken under this chapter has ceased to be used for school purposes for 2 successive years the lot shall revert to the owner, his heirs or assigns, on his demand. The request for reversion shall be made in writing to the school board. The school board may enter the lot and remove the school buildings within 6 months after the demand.

#### § 1254. Appeals

If the owner is aggrieved at the damages awarded him under this chapter he may appeal to the Superior Court of the county in which the land or any part of it lies.

1. Procedure. He shall file a complaint in the court and serve the school administrative unit with a copy within 90 days of the date of recording of the description of the lot in the registry of deeds. The complaint shall set forth substantially the facts, but shall not state the amount of the damages previously awarded to the owner.

2. Determination of damages. The damages may be determined in the

Superior Court by a committee of reference if the parties so agree, or by a jury verdict.

3. Costs. If the damages are increased, the school administrative unit shall pay the damages and costs; otherwise the costs shall be paid by the appellant.

4. Committee of reference compensation. A committee of reference shall be allowed a reasonable compensation for their services. This compensation shall be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts.

5. Further appeal. An appeal may be taken by a party from the judgment of the court to the Supreme Judicial Court.

§ 1255. School lots; erroneous description

1. Reappraisal. If a school administrative unit has designated, located and described a lot upon which to construct or enlarge a school and from mistake or omission has failed to comply with the law whereby the location has been rendered invalid, 3 legal voters and taxpayers of that unit may apply in writing to the school board and have the lot, so designated or described, reappraised by them.

2. Notice. The school board to whom an application has been made shall give not less than 7 nor more than 20 days' notice to the municipal clerks and to the person owning or having charge of the real estate. The notice shall contain the time and place for the hearing. After examination and hearing of all interested, the school board shall appraise and affix a fair value to the lot as set out, exclusive of improvements made by the school administrative unit. As soon as practicable, the school board shall notify the municipal clerks and the person owning or having charge of the real estate of the appraisal.

3. Assessment and collection. The sum fixed as the value of the lot shall be assessed, collected and paid over as other school money.

4. Tender. A sum which has been tendered and is in the hands or under the control of the persons owning or having charge of the land shall be allowed in payment of the appraisal.

5. Appeal by either party. The school board or the person owning or having charge of the land reappraised may appeal if they are dissatisfied with the reappraisal.

A. The claim for appeal shall be submitted to the county commissioners of the county in which the land lies, and shall include a copy of the proceedings.

B. The determination of the appeal shall be by a majority of the commissioners who are not residents of the school administrative unit.

C. The determination may be appealed by an aggrieved party to the Superior Court as provided under section 1254.



6. Improvements inure to units. If a school administrative unit has erected or moved a building on or improved a lot, the improvement shall inure to the benefit of the school administrative unit. The building or improvements may be as completely occupied and controlled by the school administrative unit as it would have been if the location had been in strict conformity to law.

7. Tax not affected. The legality of a tax assessed to build, repair or remove a school building and to pay for a lot shall not be affected by a mistake or error in designation or location of a lot.

## SUBCHAPTER VII

### PENALTIES

#### § 1301. Forfeiture

A forfeiture under this Title may be recovered by indictment. Unless specifically provided for, it shall be disbursed as follows.

1. School purposes. It shall be paid into the treasury of the school administrative unit where the offense occurred, for use for school purposes.

2. Prosecution costs. An amount equal to the cost of prosecution shall be paid into the county treasury.

3. Forfeiture. A school administrative unit shall forfeit the money it received to a person bringing civil suit, if the unit has not expended that money within one year of receiving it.

#### § 1302. Fraud

A school officer or teacher who is convicted of defrauding the State into paying tuition in excess of that established in sections 3105 and 4053, shall be guilty of a Class D crime.

#### § 1303. Disturbing schools

A person who enters a public or private school building or another place of instruction during or out of school hours, while the teacher or student is present, and willfully interrupts or disturbs the teacher or student by loud speaking, rude or indecent behavior, signs or gestures, or willfully interrupts a school by prowling about the building, making noises, throwing missiles at the schoolhouse or disturbing the school, shall commit a civil offense and shall forfeit not less than \$2 nor more than \$20.

#### § 1304. Injuries by minor; damages

If a minor injures or aids in injuring a schoolhouse or school outbuildings, utensils or appurtenances; defaces the walls, benches, seats or other parts of school buildings by marks, cuts or otherwise; or injures or destroys school property belonging to a school administrative unit, the unit may recover of the minor's parent, in a civil action, double the damage.

**§ 1305. Defacing schoolhouses, outbuildings**

A person who defaces the walls, benches, seats, blackboards or other parts of schoolhouse or school outbuildings, by obscene pictures, language, marks or descriptions, commits a civil offense and shall pay a fine of not more than \$10.

**§ 1306. Liability for injury to books or appliances**

If a public school student loses, destroys or unnecessarily injures a schoolbook or appliance furnished to him at the expense of the school administrative unit, his parent shall be notified. If the loss or damage is not made good to the satisfaction of the school board within a reasonable time, they shall report the case to the assessors of the municipality in which the student resides. The municipal assessors shall include in the next municipal tax of the delinquent parent the value of the book or appliance, to be assessed and collected as other municipal taxes.

**§ 1307. Misappropriation of funds; penalty**

If any part of the money raised by a school administrative unit, or paid to them by the State for superintendence, is expended for any other purposes, then each person misappropriating that money shall forfeit double the sum so misapplied. The money may be recovered in a civil action in the name and to the use of the school administrative unit by any of its residents. A school administrative unit or school union may not receive further aid from the State for superintendence until the amount so misapplied has been raised and expended for superintendence by that unit or school union.

**§ 1308. Noncompliance with requirements of this Title**

The penalty for noncompliance is outlined in section 163.

**SUBCHAPTER VIII****MISCELLANEOUS****§ 1351. Minor capital costs**

The following provisions apply to minor capital costs.

1. **Financing.** School administrative units may, with approval of the legislative body, arrange financing for maintenance of plant and minor remodeling.

2. **Capital reserve fund.** School administrative units may establish a capital reserve fund for maintenance of plant and minor remodeling.

**§ 1352. School insurance**

A school administrative unit shall carry fire and allied insurance coverages in the amount of the replacement cost of schools constructed under chapter 608. The commissioner may approve an alternate amount of insurance coverage if the replacement insurance coverage cannot be acquired at a reasonable cost.

**§ 1353. Water supply**

If a school building of a school administrative unit is supplied by a water supply operated by the school administrative unit and which serves only the school buildings under the control of the school board, the water supply shall not be considered a public water supply under Title 22, sections 2651 and 2652. The school board shall ensure that this water supply meets standards set by the Department of Human Services for private water supplies of schools.

**§ 1354. Fee for driver education**

A school administrative unit may charge a fee, based on the per pupil cost, for a driver education course conducted after regular school hours during the school year.

**§ 1355. Tuition students**

A school administrative unit which receives tuition students shall give at least 2 years' notice to a sending school administrative unit before discontinuing the acceptance of tuition students. The receiving unit shall file a copy of the notice with the commissioner. If the school board of a receiving unit fails to give a proper 2-year notice, the commissioner may authorize withholding school construction aid until that receiving unit complies.

**§ 1356. Fencing**

Schoolhouse lots and playgrounds that require fencing shall be fenced by the municipality, or school administrative unit.

**§ 1357. Closing schools**

Schools may be closed or relocated as follows.

1. Closing or moving. The legislative body of a school administrative unit may, at a regular or special meeting, discontinue or change the location of a school:

A. On the written recommendation of the school board; and

B. With appropriate conditions to preserve the rights and privileges of the residents for whose benefit the school had been established.

2. Temporary closing. A school board may, for a combined period of not more than one year, close a school if there are not enough pupils for profitable management.

3. Small enrollment. A school with less than an average daily attendance of 8 pupils shall close, unless:

A. The school board recommends the school stay open; and

B. The legislative body at a regular or special meeting approved that recommendation.

**CHAPTER 103**  
**SCHOOL ADMINISTRATIVE DISTRICTS**  
**SUBCHAPTER 1**  
**ORGANIZATION**

**§ 1401. Criteria for establishing a school administrative district**

The following criteria shall apply to establishing a school administrative district.

1. Number of municipalities. The district shall have 2 or more member municipalities.

2. Number of students. The district shall have, as recorded in the last return under section 3203:

A. Three hundred or more resident public secondary school pupils;

B. One hundred or more resident public secondary school students, if the state board determines the formation of a larger district is educationally, economically or geographically not feasible;

C. Any number of secondary school students, if the new district is composed in whole or in part of a community school district:

(1) Offering a program of education for grades 9 through 12; and

(2) Formed on or before, and operating on April 1, 1957; and

D. Fifty or more resident public secondary school students if:

(1) The proposed district has on file with the state board a duly authorized and executed 5-year to 20-year contract offer from a municipality having 100 or more resident public secondary school students; and

(2) If the combined number of resident public secondary school students in these 2 school administrative units exceeds 300.

**§ 1402. Formation of district**

The residents of 2 or more municipalities may form a school administrative district by completing the following steps.

1. Application vote. At a duly called special or regular town meeting or city election the voters of a municipality may instruct its school board to file an application with the state board. The article to be inserted in the warrant for the meeting shall be in the following form:

“To see if the municipality will vote to instruct its school board to file an application with the State Board of Education for the purpose of forming a School Administrative District with the following towns: (naming them.)”

**2. Initial application.** If the article is approved, the school board shall file an initial application to the state board.

**A.** The application shall include a list of the names of the municipalities that propose to join the school administrative district, an adequate study outlining the desirability and the educational feasibility of the proposed district, and whatever other information the state board may deem necessary and proper.

**B.** In municipalities which have less than 300 but more than 99 resident pupils, the application shall state in detail the educational, economic and geographic reasons for the educational, economic and geographic reasons for the formation of the proposed school administrative district.

**C.** An application shall be filed on a form prepared by the state board.

**3. Calling of a joint meeting.** If the state board finds the proposed school administrative district eligible and approves its initial application, the state board shall notify the municipal officers and the members of the school boards in the municipalities within the proposed district of a date, time and place of a joint meeting of the municipal officers and the school board members from each municipality.

**A.** The notice shall be in writing and sent by registered or certified mail, return receipt requested, to the addresses as shown on the application.

**B.** The notice shall be mailed at least 10 days prior to the date set for the meeting.

**4. Joint meeting.** The following shall govern the joint meeting.

**A.** At least 1/2 of the total number of municipal officers and school committee members eligible to vote at the joint meeting, shall be present to constitute a quorum. If there is no quorum, those present shall report to the state board that a quorum was not present and request the state board to issue a new notice.

**B.** The school boards and municipal officers of each municipality shall caucus and select 3 of their members to represent their municipality in the joint meeting. Other members may not vote in the joint meeting.

**C.** Those with voting rights shall, by majority vote:

(1) Elect a chairman and a secretary;

(2) Determine the total number of school directors to represent each municipality and the method of apportioning voting power among directors consistent with this section and section 1401;

(3) Determine the method of sharing costs under section 1501; and

(4) Determine the date when all the municipalities in the proposed district shall vote on the articles of district formation.

**D. The chairman and secretary shall prepare a report describing the number of directors and the representation from each municipality. They shall sign and forward that report to the state board.**

**5. Calling municipal elections. If the state board finds the report of the joint meeting to be in order, the state board shall order the municipal officers of the municipalities involved to call town meetings or city elections within 60 days of the joint meeting, for the purpose of voting on the question of forming a school administrative district.**

**A. Municipalities voting on the questions of district formation under Title 30, sections 2061 to 2064 shall open the polls at 10 a.m. and shall close the polls at 7 p.m.**

**B. In other municipalities the municipal officers shall direct that the town meeting or city election shall open at 7:30 p.m.**

**C. All school administrative units shall vote upon the questions of school district information in the same fashion as the units conduct other business at regular or special town meetings, except that school administrative units electing municipal officers by secret ballot may use that method for electing school board directors.**

**6. Articles to be voted on. The articles to be voted on shall be in the following form.**

**A. "Article : To see if the municipality will vote to join with the municipalities of (naming them) to form a School Administrative District."**

**B. "Article : To see if the municipality will vote to approve the allocation of representation within the district on the Board of School Directors as recommended by the school committees and municipal officers as follows: The total number of directors shall be \_\_\_\_\_."**  
(number)

**C. "Article : To choose \_\_\_\_\_ school director(s) to represent \_\_\_\_\_"**  
(number)

**the municipality (or subdistrict) on the board of school directors of the School Administrative District."**

**D. If the state board has authorized an alternative method of sharing costs, the municipality shall vote on the following article.**

**"Article : Shall the .....authorize the board of directors to \_\_\_\_\_"**  
(administrative unit)

**assess local appropriations annually in accordance with Alternate Method A—Alternate Method B**

**(Cross out one) Yes..... No.....**

(The exact terms of Alternate Method A or Alternate Method B shall be printed below the question on the warrant and on the ballot if a ballot is used.)

E. If coterminous school districts exist or there is outstanding indebtedness for school construction or other school property in any of the municipalities concerned, the following additional article must also be acted on.

“Article : To see if the municipality will vote to authorize the district to assume full responsibility for amortizing the following listed indebtedness now outstanding in the school administrative units planning to form the School Administrative District.”

(The list must include the name of the obligated school administrative unit, type of obligation, amount unpaid, interest rate and the payment schedule for all outstanding school indebtedness of all the school administrative units comprising the School Administrative District under consideration.)

F. If a school administrative district is to be formed under section 1401, subsection 2, paragraph D, or if the proposed school administrative district plans to contract with a designated private school for the education of its students in grades 9 through 12, voters shall act on the following article.

“Article : To see if the municipality will vote to join with the municipalities of \_\_\_\_\_ to form a School Administrative  
(naming them)

District, which district is hereby authorized and directed to accept the contract offer of \_\_\_\_\_  
for the schooling of pupils in grades 9 through 12.”

7. Majority vote. Approval of each article shall be by a majority vote of those voting in each municipality on each article.

8. Special provision for community school districts. A community school district may be changed to a school administrative district, with the following articles.

A. Existing community school districts may become school administrative districts on approval of the state board and may suspend operation as a community school district if each of the participating municipalities acts affirmatively on an article similar in form to the following, prior to accepting the other articles required in this section.

“Article : To see if the municipality will vote to authorize the \_\_\_\_\_  
\_\_\_\_\_ Community School District,  
(name)

of which this municipality is a part, to suspend operation as a community school district and organize and operate as a School Administrative District in accordance with action on the following article.”

B. Municipalities, including all of those participating in an existing community school district, may form a school administrative district on approval of the state board and suspend the operation of the community school district if each of the participating municipalities acts affirmatively on an article similar in form to the following, and acts affirmatively on each of the other articles required in this section.

“Article : To see if the municipality will vote to authorize the suspension of the \_\_\_\_\_ Community School District

(name)

in order to organize and operate as a part of a larger School Administrative District.”

C. In approving one of these articles, all acts of a community school district in contracting their indebtedness shall be ratified and confirmed.

D. The board of directors of the school administrative district shall pay to the trustees of the former community school district within their jurisdiction sufficient funds to amortize all outstanding capital indebtedness existing at the time the community school district was suspended.

§ 1403. Issuance of a certificate of organization

Certificates of organization shall be issued as follows.

1. Vote. A school administrative unit voting to join the school administrative district shall report to the state board the results of the vote in a manner determined by the state board.

2. Finding recorded. If the state board finds that a majority of voters in each school administrative unit joining the school administrative district have voted in favor of each of the articles of formation, elected the necessary school directors and taken all other necessary steps in the formation of the proposed school administrative district in conformity with law, the state board shall make and record its finding that the school administrative district is in compliance.

3. School administrative district number assigned. The state board, having made its finding, shall assign a number to each school administrative district in the order of their formation. The official title of the school administrative district shall be “School Administrative District No. \_\_\_\_\_.”

4. Certificate of organization. The state board shall, immediately after making its finding, issue a certificate of organization.

5. Certificate issued, filed and recorded. The original certificate shall be delivered to the school directors on the day that they organize and a copy, attested by the secretary of the state board, shall be filed and recorded in the office of the Secretary of State.

6. Issuance of certificate evidence of organization. The issuance of the



certificate shall be conclusive evidence of the lawful organization of the school administrative district.

**§ 1404. Transfer of property and assets**

The transfer of school property and assets shall be as follows.

1. **Board of directors.** The directors of a school administrative district shall determine what school property of the municipalities and former school administrative units in their district are necessary to carry out the functions of their district and:

A. Request in writing that the school board of each school administrative unit or the municipal officers transfer title of their school property and buildings to the school administrative district; or

B. Assume all the duties and liabilities under lease agreements with the Maine School Building Authority if the title is held by the authority.

2. **Transfer.** The school board or municipal officers shall make the transfer notwithstanding any other provision in the charter of the school administrative unit or municipality or other provision of law.

3. **Maine School Building Authority.** The Maine School Building Authority, on the completion of all rental payments and other conditions in the lease, shall transfer the title to the school administrative district notwithstanding any provision in the lease or other provision of the law.

4. **Financing assumed debts.** If a school administrative district has assumed the outstanding indebtedness of a former school administrative unit:

A. The directors of the school administrative district may, notwithstanding any other statute or any provision of any trust agreement, use any sinking fund or other money set aside by the school administrative unit to pay off the indebtedness for which the money was dedicated;

B. A municipality within a school administrative district may, by vote of its voters, raise, appropriate and transfer money to the school administrative district solely for capital outlay purposes; and

C. A municipality, within a proposed school administrative district that has applied to the state board, may, by vote of its voters, raise and appropriate money for capital outlay purposes to be transferred to the proposed school administrative district, if and when the district takes over the operation of the public school within its jurisdiction.

The municipality may only withdraw this appropriation:

(1) If the formation of the district fails to be approved by the municipalities within the district or by the state board; or

(2) If 9 months or more after the original vote, the electorate of the town vote to withdraw the appropriation.

**§ 1405. Operational date and transfer of authority**

The operational date and transfer of authority of a school administrative district shall be as follows.

1. **Operational date.** A school administrative district shall become operative on the date set by the state board as provided in section 1453.

2. **Transfer of governing authority.** The school directors shall assume the management and control of the public schools within the former school administrative units within the district and these former school administrative units shall have no further responsibility for the operation or control of the public schools within the district.

3. **Transfer of school accounts.** Notwithstanding section 10004 or any charter of a community school district or coterminous district, the balance remaining in the school accounts of the municipalities, community school district or coterminous school districts within the school administrative district shall be paid to the treasurer of the district in equal monthly installments over the remainder of the fiscal year in which the district is formed.

4. **Teacher contracts.** The contracts between the municipalities within the district and all teachers shall automatically be transferred to the school administrative district. The district shall assign teachers and assume obligation for existing teacher contracts.

5. **Superintendent contracts.** The contracts between the superintendents and municipalities within the district shall be transferred to the school administrative district. The board of directors shall determine the superintendent's duties within the district and pay that proportion of the salaries paid for by the former school administrative units in the district.

**§ 1406. Application of general law**

Schools operated by legally established School Administrative Districts shall be the official schools of the participating municipalities. The provisions of general law relating to public education shall apply to these schools. State funds for public schools shall be paid directly to the treasurer of the School Administrative District.

## **SUBCHAPTER II**

### **SCHOOL DIRECTORS**

**§ 1451. Board of directors**

Provisions for a board of directors shall be as follows.

1. **Size.** The size shall be determined by the joint meeting under section 1402 or by the reapportionment committee under section 1455, but shall not be less than 5. It shall include at least one director from each municipality or subdistrict.

2. Term of office. In municipalities with annual elections, directors shall serve a 3-year term. In municipalities with biennial elections, directors shall serve a 4-year term. A director shall serve until his successor is elected and qualified.

3. Terms of office under district formation. The newly elected directors under a district formation or reapportionment plan shall meet and draw lots for the length of term specified as follows.

A. In municipalities with annual elections,  $\frac{1}{3}$  of the directors shall serve one-year terms,  $\frac{1}{3}$  shall serve 2-year terms and  $\frac{1}{3}$  shall serve 3-year terms. If the number of directors is not evenly divisible by 3, the first remaining director shall serve a 3-year term and the 2nd a 2-year term.

B. In municipalities with biannual elections,  $\frac{1}{2}$  of the directors shall serve a 4-year term and  $\frac{1}{2}$  a 2-year term. If the number of directors is not divisible by 2, the remaining director shall serve a 4-year term.

C. The directors shall serve their terms as determined at the organizational meeting and an additional period until the next regular election of the municipalities. Thereafter, the directors' terms of office shall date from the time of each municipality's regular election.

4. Residence restriction. If a member of the board of school directors moves from the municipality or subdistrict that he represents, or is absent from the municipality or subdistrict for more than 90 days, a vacancy shall be declared to exist by the school board. The school board shall notify the municipal officers of the municipality in which the vacancy occurs. The municipal officers shall choose an interim director as provided in section 1454.

5. Compensation. Compensation for attendance at a school board meeting shall be between \$10 and \$25 per meeting. The school board shall recommend the exact compensation and submit their recommendation to the district voters for approval.

A. On notification by the school board, the municipal officers shall, at the next regular or special town meeting or city election, prepare a warrant or ballot for the purpose of voting on the proposed increase.

The question shall be in the following form.

"Should School Administrative District (number of district) directors be paid compensation at the rate of \$ \_\_\_\_\_ for each meeting which each director attends?"

B. No increase in compensation is effective unless approved by a majority of the voters voting on the question.

6. Secretary and treasurer. The superintendent shall serve as secretary and treasurer of the school board. He shall give a bond to the district of a sum and with the sureties as the school board shall determine. The bond shall be deposited with

the chairman. The expense of that bond shall be paid by the district. The bond premium, compensation paid directors for attendance at meetings and expenses of the district shall be paid from funds of the district by the treasurer on vouchers presented and certified by the superintendent and approved by a majority of the school board or a finance committee duly elected annually by that board.

7. Oath of office. Before their first meeting, newly elected directors shall take the following oath or affirmation before a dedimus justice or notary public.

“I.....do swear that I will faithfully discharge to the best of my abilities the duties encumbent on me as school director of School Administrative District No..... according to the Constitution and laws of this State. So help me God.”

A. A director shall make a certificate documenting that he has taken the oath or affirmation and return it to the secretary of the district to place in the district records.

B. If a director is conscientiously scrupulous of taking an oath, the word “affirm” shall be used instead of “swear” and the words “this I do under the pains and penalty of perjury” instead of the words “so help me God.”

8. Election of officers. The school board shall elect a chairman and vice-chairman and other officers as may be necessary.

#### § 1452. Methods of representation

The following are methods of representation.

1. Method A: Subdistrict representation; directors shall represent subdistricts.

A. The subdistricts, as far as practicable, shall be whole municipalities. If a municipality is divided into subdistricts, the municipal officers shall provide a separate voting place for each subdistrict of the municipality.

B. The boundaries of each subdistrict shall be determined by a majority vote of the joint meeting or reapportionment committee. Each subdistrict shall have one director, except that in a municipality comprised of 2 or more subdistricts, the joint meeting may authorize the election of directors at large.

2. Method B: Weighted votes; directors shall cast weighted votes.

A. In a municipality served by 2 or more directors, the votes cast by them shall be divided equally among them. The directors shall be elected at large within the municipality unless otherwise provided by municipal charter.

B. The committee shall apportion 1,000 votes among all the members of the board. The ratio of the number of votes cast by the directors representing a municipality in relation to the number 1,000 shall be the same ratio to the nearest whole number as the population of the municipality as in relation to the population of all municipalities in the district, as determined by the latest Federal Decennial Census or Federal Estimated Census.

**C.** To assure the use of whole numbers, the 1,000 votes apportioned among the board members may be increased or decreased by not more than 5 votes.

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

**3. Method C: At-large voting.** Directors shall be elected at large by all of the voters in the district.

**4. Method D: Other.** Directors may be elected by any other method that meets the requirements of the one-man, one-vote principle that is not included in Methods A, B or C.

#### **§ 1453. Election**

For the purpose of nominations, school directors shall be considered municipal officials and shall be nominated in accordance with Title 30, chapter 207, or with a municipal charter, whichever is applicable.

**1. Initial meeting on district formation.** On the election of the school directors, the clerk of each municipality within the school administrative district shall forward the names of the directors elected for that municipality to the state board with other data with regard to their election as the state board may require. On receipt of the names of all of the directors, the state board shall set a time, place and date for the first meeting of the directors.

**2. Special provisions.** In an election for representation under the methods provided in section 1452 the following shall apply.

##### **A. Under Method A:**

(1) Within 30 days after notification by the school board of the approval or reapportionment plan, the municipal officers shall call a special election to elect directors to serve under the plan for the school administrative district;

(2) Nomination papers shall be furnished by the secretary of the district. Notwithstanding any other section of this Title, directors shall be nominated by obtaining a minimum of 25 and a maximum of 50 signatures of registered voters residing within the subdistrict. The secretary shall notify the municipal officers of the names of candidates in each subdistrict;

(3) The municipal officers shall prepare ballots to be used in their municipality for the election;

(4) The clerks of each municipality shall forward to the secretary the results of the vote by subdistrict;

(5) The school board shall meet and total the votes cast for each candidate within each subdistrict and shall immediately notify the clerks in each municipality, the candidates and the commissioner of the results of the vote;

(6) The terms of the directors elected under the original municipal representation system shall cease on the date that the newly elected directors sworn into office; and

(7) Notwithstanding any other provision of statute, directors shall be elected by secret ballot. The ballots shall be prepared for and distributed to the municipalities or subdistricts by the secretary of the district.

**B. Under Method C:**

(1) Nominations for directors shall be made on petitions provided by the district secretary. The petitions shall be signed as provided in Title 30, section 2061, subsection 3, or if the candidate is a voting resident in a municipality having less than 200 population, signed by at least 20% of the registered voters of that municipality;

(2) The petitions shall be submitted to the registrar of voters in the respective municipalities for certification of the voting residence of the director nominated and of the voters signing the petition;

(3) The registrar of voters shall return the certified petitions to the district secretary not later than 30 days prior to the date of the annual election to be held in the municipality;

(4) The ballot shall be prepared and distributed by the district secretary. It shall give the number of offices to be filled and list the candidates by municipalities or subdistricts in which they are resident;

(5) Notwithstanding any other provision of law, school directors shall be elected by secret ballot;

(6) If all member municipalities do not conduct the election for directors on the same date, then all ballots cast in the elections shall be impounded by the clerk of each municipality.

(a) After all municipalities have voted, the clerks and one or more election supervisors designated by the municipal officers of each municipality shall meet at an agreed upon location and tally the ballot.

(b) The tally shall be completed within one day of the last member municipality election. The election supervisors shall select from among their members a chairman who shall supervise the tally of ballots.

(c) The clerk of each municipality shall as promptly as possible after the election certify to the school board the result of the voting in that municipality; and

(7) Any recount petitions shall be filed with the secretary of the school board and recounts shall be conducted in each member municipality in accordance with the applicable laws.

If a vacancy occurs on the school board before the term of that director expires, then:

1. **School board.** The school board shall notify the municipal officers of the municipalities within the district before the annual town meeting or before the regular city election of the vacancy;

2. **Municipal officers.** The municipal officers shall provide for the election of a director to fill the vacancy; and

3. **Interim director.** The municipal officers of the municipality in which the director resided shall select an interim director for the municipality or subdistrict to serve until the next annual municipal election. The interim director shall serve until his successor is elected and qualified.

#### **§ 1455. Reapportionment**

The state board shall determine the necessity for reapportionment.

1. **Duties of the state board.** The state board shall determine if a district is apportioned in accordance with the principles of one man, one vote, if:

A. It receives a request by the school board;

B. It receives a petition signed by district voters equal to at least 10% of the voters who voted in the last gubernatorial election in the district; or

C. It determines a district is not apportioned according to the principles of one man, one vote.

2. **Awaiting census results.** If the state board receives a request within 12 months before a Federal Decennial Census or Federal Estimated Census, the board may wait until after the new census figures are available to make a determination.

3. **Findings and order.** If the state board finds the district's representation is not apportioned in accordance with the principle of one man, one vote, it shall, within 7 days of that decision, notify the municipal officers in each municipality in the district and the school board to create a reapportionment committee. The notification shall include the time and place for the first meeting of the committee which shall be held not later than 20 days after the notification.

4. **Reapportionment committee membership.** The reapportionment committee shall consist of one municipal officer and one citizen at large from each member municipality, chosen by the municipal officers, and one director from each municipality, chosen by the school board. The appointments shall be made prior to the first meeting of the committee.

5. **Quorum.** A majority of the committee shall be a quorum.

6. **Duties of the commissioner.** The commissioner shall provide the committee with the most recent Federal Decennial Census or Federal Estimated Census figures for each municipality in the district and at least one recommended apportionment plan.

**7. Duties of the reapportionment committee. The committee shall:**

- A. Elect a chairman and secretary and may adopt suitable rules of procedure;**
- B. Consider and by majority vote adopt a plan including the method of representation, total number of directors and number of directors representing each municipality or subdistrict;**
- C. Within 90 days of the first meeting, send a report of their plan to the state board for approval. It may, within the 90-day limit, submit alternative plans for apportionment; and**
- D. Determine the date when the district shall vote on the reapportionment plan.**

**8. State board approval. The state board shall approve or disapprove the committee plan within 30 days of receiving it.**

**9. Failure to gain state board approval. If a plan has not been adopted by the committee or approved by the board within the time limits, the commissioner shall prepare a suitable plan and submit it to the state board for approval.**

**10. Putting the approved plan into effect. On approval of a plan by the state board, the commissioner shall send a certified copy to the municipal officers and school directors. The original plan shall be retained in the state board files.**

**A. The approved plan shall be effective immediately. The committee shall determine the terms of the directors who shall be elected at the next annual municipal elections so as to comply with section 1453.**

**B. If the approved plan requires a reduction of the number of directors to be elected in a municipality, all of the existing directors representing the municipality shall, within 7 days after the date of approval and under the supervision of the school board, choose by lot which directors' terms shall terminate.**

**C. If the approved plan requires that additional directors be elected in a municipality, the municipal officers shall fill the vacancies by appointment. A new director shall serve until his successor is elected and qualified at the next annual municipal election.**

**D. The current school board shall serve until the next annual municipal elections.**

**E. The reapportionment committee shall thereupon be dissolved.**

**11. Duties of present directors during reapportionment. The school board, during the reapportionment of its membership, shall serve as legal representatives of the district until the reapportionment is completed. The school board shall carry out all business of the district, including the borrowing of necessary funds which may be required during the period of reapportionment.**



**§ 1456. Powers and duties****The school board:**

1. **School district name.** May select an unofficial name of the district;
2. **Finance committee.** May elect a 3-member finance subcommittee;
3. **Operating schools.** May operate elementary school units;
4. **Purchase of land outside the district.** May purchase land outside of the geographical limits of the district and erect a school on it if, because of the location of other schools within the school district or transportation difficulties, a school within the district would not be in the best interests of the district;
5. **Bylaws.** Shall adopt bylaws for the regulation of the affairs of the board and the conduct of its business;
6. **Property disposal.** May not dispose of any real property unless the transaction has been authorized by the voters of the district as required by sections 1551 to 1554, except:
  - A. The school board may vote to return unused school property to the municipality where the property is located if the district has assumed no indebtedness or lease obligation on account of the property;
  - B. The school board may transfer or lease unused school property to nonprofit organizations for educational or cultural purposes; and
  - C. The school board may lease any unused school buildings for educational or cultural purposes; and
7. **Gifts.** May accept and receive money or other property, outright or in trust, for any specified benevolent or educational purpose. The school board shall comply with the following in accepting gifts.
  - A. If the school board receives written notice from a prospective donor or his representative of a proposed gift, they shall submit the matter to the next regular meeting of the school board or shall call a special meeting. The school board shall, within 10 days after the meeting, send written notice of its acceptance or rejection.
  - B. If the gift is in trust, the school board shall deposit or invest those trust funds according to Title 30, section 5051.
    - (1) Unless prohibited by a trust instrument, the district may treat any 2 or more trust funds as a single fund for the purposes of investment.
    - (2) After deduction for management expenses, any interest earned or capital gains realized shall be prorated among the various trust funds.
    - (3) Property or securities included in the corpus of a trust fund shall be retained where the trust instrument so provides.

(4) Unless otherwise specified in the trust instrument, only the annual income from the trust fund may be spent.

(5) If the district fails to comply with the terms of the trust instrument, the trust fund reverts to the donor or his heirs.

C. If the money or other property is a conditional gift for any specified benevolent or educational purpose, the following shall apply.

(1) When the donor or his representative has completed his part of the agreement respecting the execution of the conditional gift, the district shall perpetually comply with, and may raise money to carry into effect, the conditions upon which it was made.

(2) Unless otherwise specified by its terms, conditional gift of money shall be deposited or invested according to Title 30, section 5051.

§ 1457. Quorum

One-half of the school board membership in number and voting power shall be a quorum.

§ 1458. Program

A school administrative district shall maintain a program which includes kindergarten through grade 12.

1. Secondary school. A district shall provide a secondary school facility as follows.

A. A district which enrolls more than 700 pupils in grades 9 through 12 may operate more than one 4-year school.

B. A district which enrolls less than 700 pupils in grades 9 through 12 shall provide grades 10 through 12 in one facility within 4 years from the date of the district's formation.

C. Secondary school facilities may be operated as 4-year schools, a 6-year school for grades 7 through 12, or 2 or more 3-year schools.

2. Remote areas. Children living in an area remote from a public school may be provided for under section 3105.

3. Other facilities. Notwithstanding this section, a district may contract with a nearby school administrative unit or with a private school for all or part of its secondary pupils. The contract may be for a term of from 2 to 10 years.

§ 1459. Disposal of property

In disposing of real property in any amount of personal property in an amount exceeding \$1,000, the school board shall comply with the following procedures.

1. Requirement to advertise. At least 5 days prior to the date set for the close of bids, the school board shall advertise for sealed bids in a newspaper having general circulation in the territory embracing the school administrative district.

**2. Bid procedure. The following shall apply to bids.**

**A. Bids shall be in writing, sealed with outside envelope or wrapper plainly marked "Bid, not to be opened until (with appropriate date inserted)," and mailed to or filed with the superintendent of the unit.**

**B. A director or employee of the school administrative district may not open a bid until the appointed time.**

**C. At the time and place stated in the public notice, and open to the public, all bids shall be opened by the superintendent or, in his absence or disability, by any director designated for the purpose by the chairman of the school board.**

**D. If any citizens who are not school administrative district directors or employees, or if any representatives of the press are present, bids shall at the time either be made available for examination by them, or shall be read aloud in a manner to be heard plainly by those in attendance.**

**3. Exceptions. Property may be disposed of without bids as follows.**

**A. The school board may sell school property and buildings to the municipality where the property and buildings are located at a mutually acceptable price without advertising, provided the school administrative district had assumed no indebtedness or lease obligation on account of that property.**

**B. The directors may return unused real property to individuals from whom it was purchased, their heirs or assigns, when it is no longer needed for school purposes.**

### **SUBCHAPTER III**

#### **FINANCING**

##### **§ 1501. Finances**

**A school administrative district may raise money for establishing and maintaining public schools, erecting buildings and providing equipment.**

**1. Methods of sharing costs. The costs of operating a school administrative district shall be shared among all municipalities within the district in one of the following ways.**

**A. Under a property valuation method, municipalities in a district shall share costs in the same proportion as each municipality's state valuation is to the district's state valuation.**

**B. Under an alternate, Method A:**

**(1) Each municipality shall raise 20 mills on its property valuation;**

**(2) Any additional appropriation shall be allocated according to the proportionate number of resident pupils residing in the municipality and in the district on October 1st and April 1st preceding the convening of the Legislature; and**

(3) A municipality within the district may not be assessed an amount which exceeds 15% of the average percentage increase of the district as a whole over the assessments of the previous year. Amounts that must be redistributed because of this limitation shall be distributed among the remaining municipalities of the district as provided under subparagraph 2, but based on the number of pupils residing in the remaining member municipalities in place of the number of district pupils.

**C. Under another alternate, Method B:**

(1) The school board shall establish a plan to allocate the percentage of the budget to be assessed on the average of resident pupils and the percentage to be assessed on state valuation. The sum of both percentages shall equal 100%. A percentage may not be less than 15% and each percentage shall be in multiples of 5%; and

(2) Each municipality shall be assessed an amount that is in same proportion to:

(a) The total pupil percentage amount as the average of resident pupils of the municipality bears to the average of resident pupils of the district; and

(b) The total valuation percentage amount as the state valuation of the municipality bears to the total state valuation of all municipalities in the district.

2. Residents on federal property. For the purposes of this chapter only, a district may elect to consider pupils residing on land under the control of the Federal Government or on a federal military reservation, who are eligible under United States Public Law 81-874, as residents of the district but not as residents of a municipality.

3. Amendment of cost-sharing formulas. The cost-sharing formula may be amended as follows.

A. If requested by a written petition of at least 10% of the number of voters voting in the last gubernatorial election in the municipalities within the district, the school board shall hold a meeting of municipal representatives to determine the necessity of reconsidering the method of sharing costs. The district shall give at least 15 days' notice to each municipality comprising the district of that meeting.

B. Each member municipality shall be represented at the meeting by 2 representatives chosen at large by its municipal officers, and one member of the district board of directors chosen by the municipality's directors.

C. A change in the method of sharing costs may only be approved by a majority vote of the municipal representatives present.

D. If approved by this meeting, the change shall be submitted to the voters at a district meeting. It shall become effective when approved by a majority vote

of the district in a district referendum called and held for this purpose in accordance with sections 1551 through 1554.

E. Assessments made by the school board thereafter shall be made in accordance with the new method of sharing costs.

F. The secretary of the district shall notify the state board that the district has voted to change its method of sharing costs. The state board shall issue an amended certificate of organization showing this new method of sharing costs.

**§ 1502. Budget preparation**

The district budget shall be prepared as follows:

1. Preparation by board. The school board shall annually prepare a budget for:

- A. Operational costs;
- B. Bonds falling due;
- C. Interest on bonds or other obligations;
- D. Rentals and other charges in a contract;
- E. A lease or agreement with the Maine School Building Authority; and
- F. Temporary loans.

2. Distribution. At least 7 days before the district budget meeting, the school board shall make available to the legislative body responsible for final budget approval and residents of the district, a detailed budget document. It shall include a summary of anticipated revenues and estimated school expenditures.

**§ 1503. Budget meeting**

The school board shall hold a district budget meeting at a time it determines.

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

- A. Be signed, by a majority of the school board;
- B. Specify the time and place of the meeting;
- C. Include the proposed school budget and other articles the school 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 district by name ordering him to notify all voters within the district to assemble at the time and place appointed.

2. Notice. An attested copy of the warrant shall be posted by the person to

whom it is directed in some conspicuous public place in each of the municipalities within the district at least 7 days before the meeting. The person who gives notice of the meeting shall make his return on the warrant stating the manner of notice in each municipality and the time when it was given.

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

§ 1504. Meeting procedures

The following procedures shall be used at a district meeting.

1. Election of moderator. The secretary of the school board, or in his absence, the chairman of the school board, shall open the meeting and call for the election of a moderator.

2. Budget consideration. The budget shall be thoroughly explained. The voters shall have an opportunity to be heard. The voters may change items dealing with:

- A. The expenses necessary to operate the school administrative district;
- B. Appropriations for the reserve fund; or
- C. Appropriations for the contingency fund and capital outlay.

3. Approval. A majority vote of those voters present and voting shall be necessary for the approval of the annual budget.

4. Voting lists. Registration of voters for the annual budget meeting shall be held in each member municipality in accordance with the time schedule specified in Title 21, section 631.

A. Prior to the annual budget meeting, the municipal clerks of the member municipalities shall supply to the school board a current list of the registered voters of their municipality.

B. The lists shall be used in determining the voters who are eligible to vote at the annual budget meeting.

§ 1505. Alternative voting procedures

If requested by a written petition of at least 10% of the number of voters voting in the last gubernatorial election in the municipalities within the district, the school board shall cause the following article to be voted on by the voters of the member municipalities.

**“Shall School Administrative District No. ....require that the voting at future district budget meetings and special district budget meetings held between July 2, 1978 and July 1, 1982, be done within each member municipality of the district?**

**Yes\_\_\_\_\_ No\_\_\_\_\_”**

**1. Procedure. The procedure for voting on the article shall be as follows.**

**A. On receipt of a request and if the request complies with the requirement of this section, the school board shall immediately notify the municipal officers within the district of the receipt of the request.**

**B. The municipal officers within the district shall then cause the article to be placed on the ballots for that municipality for the next general or statewide special election occurring at least 45 days after the date on which the municipal officers received the notice.**

**C. The warrants, notices and voting procedures to be followed within a municipality, including absentee voting procedures, shall be the same as those provided in Title 21, except that the duties of the Secretary of State shall be performed by the school board.**

**D. Municipal clerks shall, within 24 hours of the determination of the results of the vote in their municipality, certify the total number of votes cast in the affirmative and in the negative on the article to the school board.**

**E. As soon as all of the results from all of the municipalities have been returned to the school board, the board shall meet and compute the total number of votes cast in the affirmative and in the negative on the article in all of the municipalities within the district.**

**F. If the school board determines that there were more votes cast in the affirmative than there were in the negative on the article, they shall declare that the article has passed.**

**G. If the school board determines that the total number of votes cast on the article in the affirmative is equal to or less than those in the negative, they shall declare that the article has not passed.**

**H. The school board shall enter their declaration and computations in their records and send certified copies of it to the municipal clerk of each municipality within the district.**

**2. Result. If it is declared that the voters within a district have voted in the affirmative on the article, the school board shall notify the commissioner of that fact and shall request authorization from the commissioner to cause the voting at future budget meetings to be held within each municipality within the district.**

**3. Commissioner to choose. The commissioner shall select not more than 3 districts from those requesting authorization. He shall notify the school boards of**

those districts that they may cause the voting at future budget meetings to be held within each municipality within the district.

4. **Application.** Following notification, the school board shall cause the voting at all future district budget meetings and special district budget meetings held before July 1, 1982, to be held within each municipality within the district. The voting shall be held in accordance with the procedures set out in sections 1551 to 1554. The school board may hold informational meetings on voting procedure and budget prior to voting. The school board shall be responsible for the form of the articles to be voted on in the municipalities, except as otherwise provided by law.

5. **Failure to approve a budget.** If, at a district meeting where the voting is done within each municipality within the district, the voters fail to approve a part of the operating school budget, subsequent district budget meetings shall be held and the voting at these meetings shall be done at a single place within the district. These meetings shall be held solely for the purpose of approving an alternative operating school budget to replace the part of the proposed budget which the voters failed to approve. These meetings shall be held in accordance with the provisions and procedures set out in section 1504. They may continue in this manner until an alternative budget is adopted.

6. **Report.** The school board of a district authorized to vote under this section shall, no later than December 31, 1981, submit a written report to the commissioner containing the board's evaluation of the following items:

- A. Evaluation of the voting procedures authorized by this subsection;
- B. Evaluation of the effectiveness of that procedure in their district;
- C. Opinions on the advisability of retaining that procedure; and
- D. Any recommendation for change in the procedures which the board may feel appropriate.

7. **Repeal.** This section is repealed on January 1, 1983.

#### **§ 1506. Budget format**

The school board shall determine the budget format unless the district voters establish it.

1. **Petition.** An article dealing with the budget format may be placed on the next warrant if authorized by a majority vote of the school board or if a written petition of at least 10% of the number of voters voting in the last gubernatorial election in the municipalities within the district has been presented to the school board.

2. **Meeting.** A school budget format may be established by the district voters if at least 20% of the number of voters vote on an appropriate warrant article, and a majority approve it. The meeting shall be called and held as provided for district approval procedures under sections 1551 to 1554.



3. **Effective date.** A change in budget format shall be voted on at least 90 days prior to the budget year for which that change is to be effective.

**§ 1507. Specific line budgets**

If the school budget format requires specific line categories, then in preparing the warrant and conducting the budget meeting, the following shall apply.

1. **Separate articles.** Each category shall be included in a separate warrant article.

2. **Transfer.** Unless authorized by the voters, the school board may not transfer funds between line item categories.

3. **Summary action.** To summarize the action taken on the school budget for the purposes of determining the district's state-local allocations, the articles prescribed in chapter 605 shall also be voted upon.

**§ 1508. Failure to pass budget**

If a budget for the operating of the district is not approved prior to June 1st, the budget as submitted by the school board shall be automatically considered the budget approved for operational expenses for the ensuing year.

**§ 1509. Special budget meeting**

The school board may call a special budget meeting when they declare an emergency to exist. The voters of the district may authorize the directors at a special district budget meeting to pledge the credit of the district to obtain additional moneys for the operation of schools.

**§ 1510. District assessments**

District assessments shall follow these procedures

1. **Warrant.** In accordance with the budget approved by the voters at an annual budget meeting and in substantially the same form as the warrant of the Treasurer of State for taxes, the school board shall issue its warrants to the assessors of each member municipality requiring it to assess upon the taxable estates within the municipality an amount which is that municipality's share of the district's costs.

2. **Commitment.** The municipal assessors shall commit the assessment to the constable or collector. He shall have the authority and powers to collect the district's taxes as is vested in him by law to collect state, county and municipal taxes.

3. **Installments.** The school board shall notify the member municipalities of the monthly installments that will become payable during the fiscal year.

4. **Payment.** A municipal treasurer shall pay the amount of the tax assessed in the fiscal year against the municipality to the treasurer of the district. The payments shall be paid in monthly installments on or before the 20th of each month.

5. **Gifts.** A municipality may use the proceeds from gifts or trust funds allocated for educational purposes to pay its share of the assessment.

6. **Enforcement.** If a municipal treasurer fails to pay the installment due, or any part, on the dates required, the treasurer of the district may issue his warrant for the amount of the unpaid tax to the county sheriff requiring him to levy by distress and sale on the real and personal property of any of the inhabitants of the municipality where that default takes place. The sheriff or his deputies shall execute the warrant. In collecting taxes within member municipalities, the school board shall have the same power as county officials for the collection of county taxes under Title 36, chapter 105, subchapter 9.

**§ 1511. Power to borrow money**

A school administrative district may borrow money as follows.

1. **Board.** The school board may borrow money to pay for:

A. Current operating expenses of the district if the loans are repaid within one year of the date of borrowing and are limited to an amount reasonably required for current operating expenses; and

B. Capital outlay as defined in section 10203 or for school construction projects as defined in section 10303.

2. **Voters approval.** Bonds or notes for capital outlay purposes shall first be approved by a majority of voters of the district voting at an election called by the school board and held as provided in sections 1551 to 1554, except as is otherwise provided in this section.

A. Each bond or note shall have inscribed upon its face the name of the district, the date it was issued, the amount of the bond or note and the annual interest rate, payable semiannually. Each bond or note shall be in the form and be sold in the manner, at public or private sale, as the school board shall determine in accordance with state law. Bonds may not be sold for less than par.

B. Notes or bonds issued by a district shall be signed by the treasurer or assistant superintendent, and countersigned by the chairman of the board of directors of the district. If coupon bonds are issued, each coupon shall be attested by a facsimile signature of the treasurer.

C. Each issue of bonds shall mature in substantially equal annual installments so that the first installment shall be payable not later than 2 years and the last installment not later than 25 years after the date of issue.

3. **Temporary notes.** Prior to issuing authorized capital outlay bonds or notes, the school board may borrow in anticipation of their sale by issuing temporary notes and renewal notes subject to the following.

A. Their total face value amount may not exceed at any one time the authorized outstanding amount of the capital outlay bonds or notes.

**B.** If the proceeds of an issue of bonds are used in whole or in part to fund temporary notes, the period during which the issue of bonds shall be outstanding plus the period of the loan represented by the temporary notes or renewals shall not exceed 25 years.

**C.** Temporary notes shall mature not later than 3 years from the date the first temporary note is issued.

**D.** Temporary notes and renewal notes shall be legal obligations of the district.

**E.** The board of directors of a district which has received a certificate of approval of a capital outlay project pursuant to Title 20, section 3458 to be paid in accordance with the alternate method prescribed in Title 20, section 3460, may borrow in anticipation of unpaid portions of state aid and may issue temporary and renewal notes.

**F.** If the temporary or renewal notes in anticipation of state aid exceed the aggregate amount of state aid actually received by the district, the unexpended balance of those notes shall be used for the repayment. If an outstanding balance remains, it shall be included in the next annual budget and shall not be subject to change at the district budget meeting.

**4. Early redemption.** Bonds or notes issued on behalf of a district may be made subject to call for redemption, with or without premium, at the election of the school board before the date fixed for final payment of those bonds or notes. When these bonds or notes are issued, they shall contain provisions setting forth the method by which the option to call may be exercised, the procedure for payment in the event of call and the legal effect of making the call.

**5. District status.** Notes and bonds, and loans to pay current operating expenses, contracts, leases and agreements with the Maine School Building Authority, shall be legal obligations of the district. The district shall be a quasi-municipal corporation within the meaning of Title 30, section 5053, and all the provisions of that section shall be applicable to them.

**6. Debt limit.** The aggregate principal amount of outstanding bonds or notes issued by a district for capital outlay purposes shall not exceed, at any one time, 10% of the total of the last preceding state valuation of all the municipalities within the district, plus an amount not to exceed 4% of that total district valuation set by the state board at the time of the initial approval of the school construction project.

**A.** Indebtedness in excess of 10% incurred under the law, as it existed prior to April 1, 1974, is hereby validated.

**B.** Outstanding school indebtedness assumed by the district shall be included in its limit of indebtedness, excluding contracts, leases or agreements with the Maine School Building Authority and notes in anticipation of state aid issued pursuant to subsection 3.

C. The percentage limit of the indebtedness for bonds or notes for capital outlay purposes authorized after April 27, 1967 shall be fixed as of the time of authorization by the voters or, if no district meeting is held to authorize those bonds or notes, upon the expiration of 35 days following passage of a resolution of the school board as described in subsection 7.

D. If the issuance of bonds or notes together with all outstanding indebtedness included within the district's limit of indebtedness would cause the district's indebtedness to exceed 10% of the total of the last preceding state valuation of all the municipalities within the district, the school board shall not issue those bonds or notes until they shall have received a certificate of approval pursuant to Title 20, section 3458.

E. If a certificate of approval indicates that the state board has authorized state aid to be paid in accordance with the alternate method prescribed by Title 20, section 3460, the total estimated amount of state aid payable on account of the school construction project described in the certificate of approval shall be treated as outstanding school indebtedness for the purpose of computing the borrowing capacity of the district to finance that project by issuing its bonds or notes. State aid shall be determined by applying the applicable percentage of state aid to the total estimated cost of the project, as set forth in the certificate of approval.

7. Bonds and notes under 1% of valuation. The school board may issue bonds or notes not to exceed 1% of the last preceding state valuation of all the municipalities within the district:

A. By calling a district meeting to approve the issuance of those bonds or notes as provided in section 1504; or

B. By passing a resolution to that effect, setting forth the amount of the proposed issue and the purposes for which the proceeds will be used, and meeting the following requirements.

(1) The secretary of the school board shall, within 5 days of the date of the passage of the resolution, cause attested copies of the resolution to be posted in 3 public and conspicuous places within each of the municipalities within the district. He shall make a return of his posting stating its time and place. The return shall be kept with the records of the district, and a copy of the return shall be mailed to each of the municipal officers of each municipality within the district.

(2) If, within 35 days of the date of the passage of the resolution, petitions with signatures of at least 10% of the residents in the district eligible to vote on the date that the resolution was adopted, are filed with the secretary requesting a vote of the district to approve or disapprove the issuance of the bonds or notes, the secretary shall immediately notify the school board. They shall call an election for that purpose as set forth in sections 1551 to 1554.

(3) The school board shall not authorize bonds or notes by resolution if the

amount of the proposed issue, together with the amount of any other bonds or notes authorized solely by resolution and which are for the same purpose, exceeds 1% of the total of the last state valuation of all the participating municipalities.

**§ 1512. Reserve fund**

School administrative districts may establish a reserve fund for capital outlay purposes as follows.

1. **Establishment.** A school administrative district may establish a reserve fund for capital outlay purposes by including a request in the district budget and receiving voter approval. The school board shall be the trustee of the reserve fund. The reserve fund shall be deposited or invested by the treasurer under the direction of the school board.

2. **Deposit or investment.** Reserve funds, trust funds and all permanent funds shall be deposited or invested by the treasurer under the direction of the school board as follows.

A. The balance in a savings bank, trust company or national bank in the State shall not exceed the amount insured by the Federal Deposit Insurance Corporation.

B. The funds may be invested in shares of a building and loan or a savings and loan association organized under state law.

C. The funds may be invested according to the law governing investment of the funds of saving banks under Title 9-B, chapter 55. For the purpose of this paragraph, the words "deposits of a bank" or their equivalent, as used in Title 9-B, chapter 55, mean the total assets of the reserve fund, trust fund or other permanent fund being invested. The limitation concerning the maximum amount which may be invested in a security or type of security under Title 9-B, chapter 55, applies only to an investment in that security or type of security which exceeds \$2,000.

3. **Expending moneys from reserve funds.** The school board may expend the sum in the reserve fund when authorized to do so by a vote of the district at a district meeting or a district budget meeting, when an article for that purpose is set out in the warrant calling the meeting.

**SUBCHAPTER IV**

**DISTRICT REFERENDUM**

**§ 1551. District referendum**

The school board:

1. **Authority to call a district referendum.** May initiate a district referendum:

A. To approve the issuance of bonds or notes for capital outlay purposes;

- B. To approve a change in the selection of a school building site;
- C. To approve a change in the method of sharing costs among the member municipalities;
- D. To approve an agreement to add another municipality to the district;
- E. To approve an agreement to transfer a participating municipality to another school administrative district;
- F. To approve an agreement to merge with another school administrative district;
- G. To approve a proposed lease agreement with the Maine School Building Authority;
- H. To authorize the school board to contract for the schooling of secondary pupils;
- I. To authorize the school board to dispose of real property; or
- J. To accept or reject a prospective gift; and

2. Required district referendum. Shall initiate a district referendum when requested by a written petition of at least 10% of the number of voters voting in the last gubernatorial election in the municipalities within the district. At that referendum, the school board shall place before the voters the specific school construction article which has been requested by the petitioners.

**§ 1552. Method of calling a district referendum**

A district referendum shall be initiated by a warrant signed by a majority of the school board and the municipality's municipal officers.

1. Municipal officers. The warrant shall direct the municipal officers within the district to call a referendum on a date and time determined by the school board. A warrant may not be prepared and distributed more than 30 days prior to the date of the referendum.

A. The warrant shall be directed to a resident of the district by name, ordering him to notify the municipal officers of each of his municipalities within the district, to call a town meeting or city election on the date specified by the school board. No other date may be used. The person who serves the warrant shall make a return on the warrant stating the manner of services and the time when it was given.

B. The warrant shall be served on the municipal clerk of each of the municipalities within the district by delivering an attested copy of the warrant in hand within 3 days of the warrant. The municipal clerk, on receipt of the warrant, shall immediately notify the municipal officers within his municipality. The municipal officers shall immediately meet, countersign and have the warrants posted.

C. The warrants and other notices for the referendum shall be in the same form as provided in Title 21.

2. Content of the warrant. The warrant shall set forth the articles to be acted on in each municipal referendum. The articles shall have the following form.

A. When a referendum is called for the purpose of authorizing the issuance of bonds or notes for capital outlay purposes, the articles shall be substantially as follows.

(1) "Shall the school directors of School Administrative District No ..... be authorized to issue bonds or notes in the name of this district for capital outlay purposes in an amount not to exceed \$ ..... to construct a ..... to be located at .....

(primary or

.....? secondary school)

(specifically define lot where school is to be erected)

Yes\_\_\_\_\_ No\_\_\_\_\_"

(2) "Shall the school director of School Administrative District No..... be authorized to issued bonds or notes in the name of this district for capital outlay purposes in an amount not to exceed \$ ..... for the purpose of .....? (here state purpose of capital outlay)

Yes\_\_\_\_\_ No\_\_\_\_\_"

(3) "Shall the school directors of School Administrative District No ..... be authorized to use the bond issue or notes in an amount not to exceed \$..... which was voted by the district on..... (date)

(date)

to construct a .....to be located at .....? (specifically define lot where school is to be located)

(specifically define lot where school is to be located)

Yes\_\_\_\_\_ No\_\_\_\_\_"

B. When a district votes to change the site of its school construction project using the article in subparagraph (3), the date of authorization of the project shall be the original date the voters authorized the school board to issue bonds or notes for that project.

C. When a referendum is called for the purposes of approving the addition of a municipality to the district, the article shall be in the form set forth in section 1601, subsection 2, paragraph A.

**D. When a referendum is called for the purpose of approving a proposed lease agreement with the Maine School Building Authority, the article shall be exactly as is set forth in the proposed lease agreement.**

**E. When a referendum is called for the purpose of authorizing the school board to contract for the schooling of secondary pupils, the article shall be as follows.**

“Shall the school directors of School Administrative District No.....  
be authorized to contract in the name of this district with.....  
(Name of Administrative  
..... the schooling of  
Unit or Academy)  
secondary pupils for a term of .....years?  
Yes\_\_\_\_\_ No\_\_\_\_\_”

**F. When a referendum is called for the purpose of authorizing the school directors to dispose of real property, the article shall be as follows.**

“Shall the school directors of School Administrative District No.....  
be authorized to dispose of .....?  
(describe the property)  
Yes\_\_\_\_\_ No\_\_\_\_\_”

**G. When a referendum is called for the purpose of authorizing a change in the method of sharing costs in the district, the article shall be as follows.**

“Shall the method of sharing costs in School Administrative District No.....  
be changed from the present method ..... to the  
(describe)  
following method: .....?  
(describe)  
Yes\_\_\_\_\_ No\_\_\_\_\_”

**H. When a referendum is called for the purposes of accepting or rejecting a prospective gift, the article shall be as follows.**

“Shall the school directors of School Administrative District No.....  
be authorized to accept a prospective gift under the following conditions?.....  
.....  
(set forth terms and conditions)  
.....  
Yes\_\_\_\_\_ No\_\_\_\_\_”

**I. When a referendum is called for the purpose of approving the agreement to transfer a municipality from one district to another district, the article shall be in the form set forth in section 1604.**



**§ 1553. Referendum procedures**

The following procedures shall apply to a district referendum.

1. **Ballots.** The school board shall prepare and furnish the required number of ballots for carrying out the referendum as posted, including absentee ballots. It shall prepare and furnish all other materials necessary to fulfill the requirements for voting procedures.

2. **Voting.** Voting shall be held and conducted as follows.

A. The voting at referendum held in towns shall be held and conducted in accordance with Title 30, sections 2061 to 2065, even though the town has not accepted the provisions of Title 30, section 2061 and 2062. The facsimile signature of the clerk under Title 30, section 2061, subsection 5, paragraph F, shall be that of the chairman of the school board. If a district referendum is called to be held simultaneously with a general election or primary election, the voting in towns shall be held and conducted in accordance with Title 21, except that the duties of the Secretary of State shall be performed by the school board. The absentee voting procedure of Title 21 shall be used, except the duties of the Secretary of State shall be performed by the school board.

B. The voting at referendum in cities shall be held and conducted in accordance with Title 21, including the absentee voting procedure, except that the duties of the Secretary of State shall be performed by the school board.

3. **Return and counting.** The return and counting of votes shall be as follows.

A. The municipal clerk shall, within 24 hours of the determination of the results of the vote in his municipality, certify and send to the school board the total number of votes cast in the affirmative and in the negative on each article.

B. As soon as all of the results from all of the municipalities have been returned to the school board, the board shall meet and compute the total number of votes cast in all of the municipalities within the district in the affirmative and in the negative on each article.

C. If the school board determines that there were more votes cast in the affirmative than in the negative, on a given article, they shall declare that the article has passed.

D. If the school board determines that the total number of votes cast on an article in the affirmative is equal to or less than those cast in the negative, they shall declare that the article has not passed.

E. They shall enter their declaration and computations in their records and send certified copies of it to the clerk of each municipality within the district.

F. If the district votes on the question of merging with another district, the secretary shall immediately file a return with the state board of the results of the vote on the question of merger.

**§ 1554. Reconsideration**

The procedure to reconsider votes taken at a district referendum shall be as follows.

1. **Time Limit.** The school board shall, within 30 days, initiate a new district referendum to reconsider the vote of the previous referendum if, within 7 days of the first referendum, at least 10% of the number of voters voting at the last gubernatorial election in the municipalities within the district petition to reconsider a prior district referendum vote.

2. **Required quorum.** A reconsideration referendum is not valid unless the number of persons voting in that referendum is at least equal to the number who voted in the prior district referendum.

3. **Bond.** If the margin of the vote being reconsidered was between 10% and 25%, the petitioners shall post a bond with the petition equal to the actual and reasonable costs of the new referendum. If the margin of the vote being reconsidered exceeded 25%, the petitioners shall post an additional bond equal to the actual and reasonable costs which may be incurred as a result of the delay of an authorization or approval granted in the prior district referendum. If the petitioners are successful, the bonds shall be cancelled.

**SUBCHAPTER V****REORGANIZATIONS****§ 1601. Additions**

A municipality not originally in a school administrative district may be included as follows.

1. **Application.** The school board of the municipality wishing to join with an existing school administrative district may file an application with the state board on a form to be provided by the state board.

A. The state board shall study the need for the municipality to join the school administrative district and recommend an agreement by which the municipality may become a member.

B. The agreement may contain a new method of sharing costs among the member municipalities of the district in accordance with section 1501. The article set out in section 1402, subsection 6, paragraph D, authorizing units to vote on alternate methods of sharing costs shall be used in the agreement recommended by the state board contains a provision for using one of the alternate methods of sharing costs.

C. This agreement shall be forwarded to the secretary of the school administrative district and to the clerk of the municipality desiring to join the district.

2. **First meeting.** Within 45 days after receipt of the agreement by the

municipal clerk, a regular or special town meeting or city election in the joining municipality, shall vote on the agreement. The vote shall conform to the following procedure.

A. The article voted on shall be:

“Article : Shall the municipality vote to join School Administrative District No. ....as a participating municipality of the district subject to the terms and conditions of the agreement prepared by the State Board of Education dated .....19.....?”

Yes\_\_\_\_\_ No\_\_\_\_\_”

(A copy of the agreement shall be posted with each warrant.)

B. The election of the directors and the vote on the agreement shall be conducted on the same day. This election shall follow the procedures used for the election of municipal officials by the municipality.

C. The vote on the agreement shall be called using the same methods as the municipality uses in conducting its business at regular or special town meetings or city elections.

D. If the municipality is organized under a special legislative charter, it shall call a referendum following the procedures outlined in its charter.

E. The municipal clerk shall send a certified copy of the results of the vote to the secretary of the school administrative district.

3. Second meeting. If the district board of directors finds that the vote was in the affirmative, the board shall call a district referendum within 45 days in accordance with sections 1551 to 1554 to vote on the following article.

“Article : Shall the district vote to admit the municipality of .....into School Administrative District No.....as a participating municipality of the district subject to the terms and conditions of the agreement prepared by the State Board of Education dated.....19.....?”

Yes\_\_\_\_\_ No\_\_\_\_\_”

(A copy of the agreement shall be posted with each warrant.)

A. The municipal clerks within the district shall forward to the state board a certified report of the total number of affirmative and negative votes cast on the article.

B. On receipt of the results of the voting from all municipalities, the state board shall meet, compute and record the result of the voting.

4. State board finding. If the state board finds that a majority of the voters of the district and a majority of the voters of the municipality favor admission of the municipality into the district, the state board shall make a finding to that effect and record it on its records.

A. The state board shall notify by registered mail the clerk of the municipality seeking to join the school administrative district and the secretary of the school administrative district of the results of the vote.

B. If the state board finding is that a majority is for joining, it shall issue an amended certificate for the school administrative district, which shall be filed in the same manner as the original certificate.

5. Certificate. The issuance of an amended certificate shall be conclusive evidence of the admission of that municipality to the school administrative district.

**§ 1602. Combining of districts**

If one school administrative district wishes to join with another school administrative district, the following procedure shall be used.

1. Application. Each district's board of directors shall file an application with the state board on a form to be prepared by the state board.

A. The state board shall receive the applications, make a study of the necessity for combining the districts and recommend an agreement by which the districts may combine.

B. This agreement shall be forwarded to the secretary of each school administrative district.

2. Meeting. Within 45 days after receipt of the agreement each district's board of directors shall call a district meeting in accordance with sections 1551 to 1554 to vote on the following article.

“Article : To see if School Administrative District No.....will vote to join School Administrative District No.....in a merger to form a larger district subject to the terms and conditions of the agreement prepared by the State Board of Education dated.....19....

Yes\_\_\_\_\_ No\_\_\_\_\_”

(A copy of the agreement shall be posted with each warrant.)

3. Return. The secretary of each school administrative district shall file a return with the state board immediately following the votes in the district on the question of merger.

4. State board finding. If the state board finds that a majority of the voters in each district have voted in favor of the merger, the state board shall make a finding to the effect and record the same on its records.

5. Notice. The state board shall notify by registered mail the secretary of each district of the results of the vote.

6. Certificate. If the state board finding is that a majority is for merging, it shall issue a new certificate for the enlarged school administrative district and

assign a number. The certificate shall be filed in the same manner as the original certificate.

7. Evidence. The issuance of the certificate by the state board shall be conclusive evidence of the merger of the school administrative districts.

#### § 1603. Dissolution

If the residents of a participating municipality desire to dissolve a school administrative district, they shall comply with the following.

1. Indebtedness limitation. A municipality may not request dissolution of a district if the district has any outstanding indebtedness. Outstanding indebtedness shall include:

- A. Bonds or notes for minor or major capital costs issued by the school board and approved by a district meeting of the school administrative district; and
- B. Obligations to the Maine School Building Authority under contract, lease or agreement made by the school board and approved by a district meeting of the school administrative district.

Outstanding indebtedness shall not include indebtedness of a municipality assumed by the school administrative district, nor a contract, lease or agreement of the Maine School Building Authority to which, by operation of law, the school administrative district has become the assignee.

2. Petition to the state board. The following procedures shall apply.

A. A municipality requesting dissolution shall petition the state board to initiate the dissolution proceedings. The petition shall be supported by a 2/3 vote of a special meeting on an article in the following form:

“Be it resolved by the residents of the municipality of.....that a petition for dissolution be filed with the directors of School Administrative District No.....

Yes\_\_\_\_\_ No\_\_\_\_\_”

B. The municipal clerk shall immediately give written notice by registered mail to the secretary of the school administrative district and the state board of the total number of affirmative and negative votes.

3. Dissolution proceedings. The proceedings to follow in dissolving a school administrative district are as follows.

A. If the state board finds that 2/3 of the municipal voters voting on the petition have voted in the affirmative, the state board:

- (1) Shall make a finding of fact to that effect and record it in its records;
- (2) May employ competent advisers to prepare an agreement. The expense of employing advisers shall be paid for by the state board. If the school administrative district votes not to dissolve, the municipality petitioning for

dissolution shall reimburse the state board for these expenses. If the school administrative district votes to dissolve, the district shall reimburse the state board for these expenses;

(3) Shall consult with the district board of directors and municipal officers of the participating municipalities;

(4) Shall prepare an agreement for dissolution;

(5) Shall call a joint meeting of the district board of directors and municipal officers by sending a notice to the board and officers by registered mail at least 10 days before the date set for the meeting. The notice shall include:

(a) A copy of the proposed agreement; and

(b) The time and place of the meeting;

(6) Shall consider the comments of the district's board of directors and the municipal officers in preparing the final agreement;

(7) Within 60 days of the receipt of the petition for dissolution, plus any necessary extension of time granted by a majority of the participating municipalities as represented by their municipal officers, shall complete and forward by registered mail the final agreement to the secretary of the school administrative district; and

(8) Shall determine the date on which the municipalities in the district shall vote on the dissolution agreement and send a notice by registered mail to each municipal clerk at least 10 days before the date set.

**B. The municipal clerk shall immediately notify the municipal officers on receipt of the notice and the municipal officers shall meet and immediately issue a warrant for a special town meeting or city election.**

**C. The warrant shall:**

(1) Indicate the date set by the state board; and

(2) Direct that the polls be open at 10 a.m. and remain open until 7 p.m.

**D. Voting shall conform to the following.**

(1) Except as otherwise provided in this chapter:

(a) The voting at meetings held in towns shall be held and conducted in accordance with Title 30, sections 2061 to 2064, even though the town has not accepted the provisions of section 2061; and

(b) The voting at meetings in cities shall be held and conducted in accordance with Title 21.

(2) Voting by absentee ballot may not be permitted.

(3) The article shall read:

**“Article : To see if the residents of School Administrative District No.....will vote to dissolve School Administrative District No....subject to the terms and conditions of the dissolution agreement dated.....19..... Yes\_\_\_\_\_ No\_\_\_\_\_”**

**(4) The dissolution agreement need not be printed on the ballot. Copies of that agreement shall be posted in each participating municipality in the same manner as specimen ballots must now be posted under Title 30, chapter 207.**

**(5) A municipality within a district which has voted on dissolution may not petition for dissolution within 6 months after the date of the district vote on dissolution.**

**E. A municipal clerk shall, within 24 hours of determination of the results of the vote in his municipality, file a return of the total number of votes cast in the affirmative and in the negative on the article with the state board.**

**F. On receipt of the results of the voting from all municipalities, the state board shall meet, compute and record the total number of votes cast in the municipalities within the school administrative district in the affirmative and in the negative on the article submitted. The state board shall notify the district's board of directors by registered mail of the results of the vote.**

**G. If the state board finds that a majority of the voters voting on the article have voted in the affirmative, it shall notify the school board of the district to immediately execute the terms of the agreement for dissolution.**

**H. If, within 7 days of the recording of the results of the voting from all municipalities, the municipal officers of a participating municipality request in writing a recount of the votes in the district, the state board shall immediately cause the checklists and all the ballots cast in all of the participating municipalities to be collected and kept at the office so they may be recounted by interested municipalities. The municipal clerks of the participating municipalities may deliver their checklists and ballots to the state board notwithstanding any other provision of law. The state board shall resolve any question with regard to disputed ballots.**

**I. When the agreement for dissolution has been executed by the board of directors of the school administrative district, they shall notify the state board by registered mail of that execution.**

**J. A complete certified record of the transaction involved in the dissolution shall be filed with the state board. On receipt of that record, the state board shall immediately issue a certificate of dissolution and send it by registered mail to the board of directors of the school administrative district. A copy shall be recorded in the office of the Secretary of State.**

**4. State aid. If a school administrative district dissolves, the general purpose aid for the individual municipalities shall be computed in accordance with chapter 605.**

5. **Posting of bond.** A municipality initiating proceedings for the dissolution of a school administrative district shall deposit to the credit of the state board a sum of money to pay the cost of the dissolution proceedings. The amount shall be determined by the state board. If the district is dissolved, the amount so set shall be returned to the petitioning municipality. If the district is not dissolved, the unused portion of the amount shall be returned to the petitioning municipality.

**§ 1604. Transfer of municipalities**

The state board may prepare agreements permitting municipalities to transfer from one school administrative district to another.

1. **Requirement for transfer.** A municipality's request for transfer shall be approved by a majority of each district's board of directors involved and shall involve a transfer to a contiguous district.

2. **Responsibilities of the state board.** The state board shall prepare the agreement within a period of 60 days after the receipt of the resolution and such necessary extensions of time as may be granted by a majority of the board of directors of the districts involved. It may employ competent advisors in preparing the agreement.

3. **Joint meeting of boards of directors.** The state board, in a subcommittee of at least 4 members designated by the board, shall call at least 2 joint meetings of the board of directors of the districts involved.

A. The meetings shall be called by a notice of the time and place sent by registered mail to the secretary of each district at least 10 days before the meetings.

B. During the meetings the proposed terms of transfer shall be discussed.

C. A majority of each board of directors shall be present.

D. During the first meeting the proposed terms of the agreement shall be discussed and during the last meeting the final terms presented by the state board shall be discussed.

4. **Approval of agreement.** The agreement may not be valid unless it is approved:

A. At an annual or special district meeting called for that purpose; and

B. By an affirmative vote of a majority of voters in each district.

5. **Meeting.** The state board shall determine the date on which the district meetings shall be held.

A. The state board shall give written notice by registered or certified mail, at least 10 days before the date set. The notice shall be sent directly to the secretary of each district.

B. Except for the time periods in section 1552, subsection 1, the procedure for holding district meetings shall be as specified in sections 1551 to 1554.



C. The district meetings shall be held within 45 days of the date of the final joint meeting of the state board and the school board.

D. The following article shall be used.

“Article : Shall the district vote to permit the municipality of..... to transfer into School Administrative District No..... as a participating municipality of that district subject to the terms and conditions of the agreement of transfer prepared by the state board dated..... 19.....

Yes\_\_\_\_\_ No\_\_\_\_\_”

(A copy of the agreement must be posted with each warrant.)

E. The return and counting of votes shall comply with section 1553.

F. The secretary shall send the results of the vote to the state board.

G. The state board shall meet, compute and record the total number of affirmative votes and negative votes on the article, cast in the districts. If the state board finds that a majority of the voters voting on the article in each district have voted in the affirmative, it shall notify the school board of each district by registered mail of the results of the vote and direct them to immediately comply with the terms of the agreement of transfer.

H. A recount of the votes on the districts, requested by the municipal officers of a participating municipality of the districts, shall follow the procedure specified in this section.

I. When the transfer has been completed by the school boards of the districts they shall notify the state board by registered mail.

J. A complete certified record of the transaction shall be filed with the state board. The state board shall immediately issue and send a certificate to each secretary by registered mail to be filed with the board of directors of the districts involved. A copy shall be filed in the office of the Secretary of State.

6. Outstanding indebtedness. The municipality transferred shall pay to the district from which it transferred its share of the outstanding indebtedness, as defined in this section, incurred before the transfer.

## CHAPTER 105

### COMMUNITY SCHOOL DISTRICT

#### SUBCHAPTER I

#### ORGANIZATION

#### § 1701. Definitions

1. Community school district. A community school district means a school administrative unit consisting of the inhabitants of and the territory within 2 or more municipalities. It shall be a body politic and corporate responsible for the operating of kindergarten through grade 12, or any combination. It may include a

school administrative district, which does not operate a secondary school, for the secondary school grades of 9 through 12 only. If a school administrative district is included, the board of directors of the school administrative district may be substituted for the words "municipal officers" and school administrative district may be substituted for the word "municipality" in applying the terms of this chapter.

2. District board of trustees. The district board of trustees shall perform the duties provided in section 1705.

3. School board. The school board of a community school district shall be called a community school district school committee.

#### § 1702. Formation

A community school district may be formed by the residents of 2 or more municipalities only if the voters of each of those municipalities have voted to create the district.

1. Municipal vote. If the school board of each municipality's school administrative unit votes to join with another municipality to form a community school district, then the municipal officers of each municipality shall call a meeting of the voters of their respective municipality in a manner provided by law for the calling of town meetings. Those meetings shall vote to either favor or oppose articles in substantially the following forms.

A. "Article.....: To see if the municipality will vote to join with the municipalities of (naming them) to form a community school district to be known as.....Community School District which shall be responsible for the operation of grades (naming them)."

B. "Article.....: To see if the costs of operating.....Community School District shall be shared among the municipalities of (naming them) in accordance with (per pupil, state valuation, a combination thereof or any other formula authorized by the Legislature)."

C. "Article.....: To see if the municipality will vote to have the community school district's school committee perform the duties of the board of trustees."

2. State board declaration. Each municipal clerk shall file a return of the votes cast at his meeting with the state board. If the state board determines that a majority of those voting in each of the municipalities favored the articles in subsection 1, paragraphs A and B, then the state board shall so declare. With the declaration, the commissioner shall issue to the community school district a certificate of organization which shall be conclusive evidence of its lawful organization. The community school district shall bear the name voted on.

3. Petition to reorganize or rename. The district school committee may petition the state board to change the name of the community school district or to change the number of grades which the community school district is responsible for operating.

A. The state board shall authorize the change if it finds the change to be in the best interest of the community school district.

B. If the State Board of Education authorizes the change, then the governing body of the community school district shall notify the municipal officers in each of the member towns who shall call a meeting of the inhabitants of their respective towns in the manner provided by law for calling of town meetings and those meetings shall vote to favor or oppose articles in substantially the following forms.

(1) "Article : To see if the town will vote to authorize the \_\_\_\_\_ Community School District to change its name to \_\_\_\_\_ Community School District."

(2) "Article : To see if the town will vote to authorize the \_\_\_\_\_ Community School District to be responsible for the operation of grades \_\_\_\_\_."

C. The clerk in each of the member towns shall file a return of the votes cast in his town meeting with the State Board of Education. If the State Board of Education finds that a majority of those voting in each of the towns favor the articles, then the community school district shall be reorganized accordingly.

4. Board to file return. Whenever the community school district is reorganized in the manner authorized in subsection 3 or as authorized under sections 1851 to 1853, the board of trustees shall file a return to that effect with the State Board of Education. A copy, certified by the commissioner, of the return shall be conclusive evidence of the reorganization of the community school district.

#### § 1703. Power

The community school district school committee shall have the following authority.

1. Operation. It shall be responsible, as of the start of the school year after organization, for the operation of the authorized grades.

2. Borrowing. It may issue bonds and notes and borrow money as authorized in this Title.

3. Property. It may acquire and hold property for the purpose of operating schools within the authorized grade levels and for other purposes.

4. Cost sharing. It shall share costs in the manner authorized by the voters.

5. Recreational facilities. It may acquire, construct and operate related recreational and athletic facilities, which may also meet other community needs.

6. Official school. It shall be the official school of the participating municipalities responsible for the operation of the grades authorized by the commissioner's certificate.

**7. General law.** All provisions of the general law relating to public education shall apply to the district.

**§ 1704. Transition to new district**

**1. Transfer of contracts.** At the start of the school year after organization:

**A.** The contracts between the municipalities within the community school district and all teachers shall automatically be assigned to the community school district and the district shall be responsible for assigning teachers to their duties and making payments on their contract; and

**B.** The contracts between the superintendents and municipality within the community school district shall automatically be assigned to the district. The superintendent's duties with regard to the community school district shall be determined by the district school committee. The community school district shall thereafter pay the proportionate part of the superintendent's salary that the municipality was liable to pay.

**2. Transfer of assets.** Each municipality within the community district, at the same time, shall transfer to the community school district:

**A.** All school supplies and equipment purchased for and in use by the school grades encompassed by the community school district formation; and

**B.** All real property, as requested by the district school committee, which was formerly used for the school grades encompassed by the district formation. The municipal officers shall execute quitclaim deeds for the transfer of real property requested by the district school committee.

**3. Initial budget.** The district school committee shall be responsible for preparing and submitting a budget to the voters, as authorized by section 1801, prior to the start of the first year.

**4. Operational date.** At the start of the school year after organization, the community school district shall become operative and the district school committee shall assume the sole management and control of the operation of all the public schools within the community school district for the authorized grade levels. It shall also adopt bylaws and an official seal.

**§ 1705. District board of trustees**

The following provisions shall apply to the community school district board of trustees.

**1. Terms of office.** The terms of office of trustees are as follows.

**A.** When a community school district has been formed the municipal officers of each of the member municipalities shall appoint 3 residents from each municipality to serve on the board of trustees of the community school district. The 3 trustees shall be appointed as follows: One for one year; one for 2 years; and one for 3 years.

B. Thereafter one trustee from each municipality shall be elected each year for a term of 3 years by the voters of each of the participating municipalities. The elections shall take place at the annual municipal meetings and the trustees elected, or appointed, shall serve until their successors are elected and qualified.

C. Vacancies, whether caused by death, by resignation or by being absent from the municipality for more than 90 days, shall be filled by appointment by the municipal officers of the municipality which the former trustee represented until a successor trustee is elected for the unexpired term, if any, at the next annual meeting.

2. Duties. The district board of trustees shall:

A. Meet on call of one of its members after reasonable notice;

B. Elect a chairman, treasurer and a secretary. The district board of trustees may authorize the district's superintendent to act as its secretary and treasurer;

C. Determine the representation of each municipality on the district school committee. The representation of each municipality shall be in approximately the same ratio to the total membership of the district school committee as the municipality's latest Federal Decennial Census is to the latest Federal Decennial Census of all of the member municipalities. Federal Estimated Census figures shall be used if they are more recent than the Federal Decennial Census figures;

D. Handle requests of petitions for reapportionment in the manner provided for school administrative districts under section 1455; and

E. Borrow funds as provided in section 1802.

3. State board return. When the trustees have fulfilled the requirements of subsection 2 they shall file a return to that effect with the state board.

4. District school committee to act as district. A community school district may vote at any time on the article in section 1702, subsection 1, paragraph C, to see if the district school committee shall be authorized to perform the function of the district board of trustees. If the municipalities vote affirmatively on that article, the district school committee shall perform the duties of the district board of trustees under this chapter.

## SUBCHAPTER II

### OPERATION

#### § 1751. District school committee

1. Officers, treasurer's fee and bond. The district school committee shall, annually in April, choose by ballot from its membership a chairman, a treasurer and a secretary. It may authorize the district's superintendent to be the treasurer and secretary.

A. The treasurer, if authorized by the district school committee, may receive up to \$250 for his services. He shall give a bond to the community school district in the sum and with sureties as the school board shall determine. The bond shall be deposited with the chairman. The expense of the bond shall be paid by the community school district.

B. Members of the district school committee shall receive only the compensation authorized by the municipalities or school administrative units which they represent.

**§ 1752. Election; vacancies**

1. Representation on the district school committee. Each member municipality's representation on the district school committee shall be chosen as follows.

A. The school board of each member municipality shall choose from its membership a person to represent it on the district school committee.

B. Membership on the district school committee shall be coterminous with the member's term of office on the municipal school board which he represents.

2. Vacancies. Vacancies on the committee shall be filled as follows.

A. A vacancy shall be filled by the school board of the municipality in which the vacancy occurs.

B. If a representative on the district school committee is absent from 3 consecutive regular committee meetings, the committee may declare that a vacancy exists. The school board in the representative's municipality may choose from among its members another representative. He shall be chosen on the basis of seniority.

C. If a district school committee member is absent from a meeting, the senior nonvoting member shall be allowed all the rights and privileges of the absent member with the exception of the right to vote. This paragraph shall apply only to a member who is the sole representative of a municipality on the district school committee.

**§ 1753. Powers and duties**

A district school committee shall have the powers and duties with respect to the community school district as are conferred upon school boards under this Title, except those powers and duties which are expressly reserved for the district board of trustees.

### **SUBCHAPTER III**

#### **FINANCING**

**§ 1801. Budget approval**

1. Preparation. A district school committee shall annually prepare a budget for the operational and capital expenditures of the community school district.

**2. Articles.** The district school committee shall prepare appropriate articles to authorize the budget expenditures and to determine the sums of money that will be assessed to each member municipality.

**3. Time and place.** The district school committee shall call an annual budget meeting on or before June 30th at an hour and in a location within the community school district it designates.

**4. Warrants.** The district school committee shall post warrants in each of the member municipalities calling for an annual budget meeting. It shall follow the procedures that are used by a town for the calling of a regular town meeting.

**5. Voting lists.** The following provisions shall govern voting lists.

**A.** Registration of voters for the annual budget meeting shall be held in each member municipality in accordance with the schedule specified in Title 21, section 631.

**B.** Prior to the annual budget meeting, the municipal clerk of each member municipality shall supply to the district school committee a current list of the registered voters of the municipality. The lists shall be used in determining the voters who are eligible to vote at the annual budget meeting.

**6. Moderator.** The chairman of the district school committee, or in his absence the secretary, shall open the meeting and shall call for the election of a moderator.

**7. Majority vote.** A majority vote of those voters present and voting shall be necessary for the approval of the annual budget.

**8. Special budget meeting.** The district school committee may call a special budget meeting when in their judgment a financial emergency exists. They shall post warrants in each of the member municipalities following the same procedures that are used for calling the regular annual budget meeting.

**A.** At the special budget meeting, the voters may authorize the district school committee to make an assessment on the member municipalities or to borrow funds to obtain additional moneys for the operation of the district's schools because of a financial emergency.

**B.** If the voters authorize the district school committee to borrow additional money, that amount shall be added to the next annual assessment of the member municipalities.

**9. Budget format; voter determination.** The budget format shall be prescribed by a majority of the district school committee, unless at least 20% of the number of registered voters, as certified by the several municipal clerks to the secretary, vote on an appropriate warrant article prescribing the budget format.

**A.** The budget format may be determined by the voters of a community school

district by adoption of an appropriate warrant article at a properly called meeting.

B. An article dealing with the budget format may be placed on the next warrant if authorized by a majority vote of the district school committee or if a written petition of at least 10% of the number of voters voting in the last gubernatorial election of each municipality comprising the community school district has been presented to the district school committee.

10. Change in format. A change in budget format shall be voted at least 90 days prior to the budget year for which that change is to be effective.

11. Line item categories; transfer of funds. Line item categories and transfer of funds shall be as follows.

A. If the budget is prepared by specific line categories, each category shall be included in a separate warrant article.

B. Unless authorized by the voters, the district school committee may not transfer funds between line item categories.

12. State-local allocations. To summarize the action taken on the budget for the purposes of determining the community school district's state-local allocations, the articles prescribed in chapter 605, shall also be voted on.

#### § 1802. Borrowing

1. Purposes of borrowing. The district board of trustees may borrow funds to pay for:

A. Current operational expenditures of the community school district in an amount not to exceed the gross budget approved by the voters at the annual meeting. These borrowed funds shall be repaid within the same fiscal year; and

B. Major and minor capital costs, not to exceed in the aggregate, at any one time outstanding, 10% of the total of the last preceding state valuation of all of the participating municipalities. Contracts, leases or agreements with the Maine School Building Authority shall not be debts or liabilities within this section.

2. Form of bond or note. Each bond or note shall have the following form.

A. It shall have inscribed on its face the name of the community school district, the date it was issued, the amount of the bond or note and the annual interest rate, payable semiannually. It shall be in the form and be sold in the manner, at public or private sale, as the district board of trustees shall determine in accordance with state law.

B. It shall be signed by the treasurer and countersigned by the chairman of the district board of trustees. If coupon bonds are issued, each coupon shall be attested by a facsimile signature of the treasurer.



**3. Maturity and time limits.** The following provisions apply to bonds or notes.

**A.** Each issue of bonds shall mature in substantially equal annual installments so that the first installment shall be payable not later than 2 years after the date of issue and the last installment not later than 25 years from the date of issue.

**B.** If the proceeds of an issue of bonds are used in whole or in part to fund temporary notes of the community school district or renewals thereof, the period during which that issue of bonds shall be outstanding, plus the period of the loan represented by the temporary notes or renewals, shall not exceed 25 years.

**C.** Notes shall mature not later than one year from their date of issue but may be renewed. The period of the original note plus that of renewals shall not exceed 2 years.

**4. District obligations.** All notes, bonds, contracts and leases and all agreements with the Maine School Building Authority entered into by a community school district shall be the legal obligations of the district.

**5. Status.** A community school district shall be a quasi-municipal corporation within the meaning of Title 30, section 5053. The provisions of Title 30, section 5053 shall be applicable to it.

**§ 1803. Community school district assessments**

**1. Community school district warrant.** In accordance with the budget approved by the voters at the annual budget meeting and in substantially the same form as the warrant of the Treasurer of State for taxes, the district school committee shall issue its warrants to the assessors of each member municipality requiring them to assess upon the taxable estates within each municipality an amount that is that municipality's share of the community school district's costs.

**2. Municipality tax collector.** The assessors of each member municipality shall commit the assessment to the constable or collector. The constable or collector shall have all the authority and powers to collect the community school district's taxes as is vested in him by law to collect state, county and municipal taxes.

**3. Monthly installments.** The district school committee shall notify the member municipalities of the monthly installments that will become payable during the fiscal year.

**4. Payment.** Each municipal treasurer shall pay the amount of the tax assessed to the treasurer of the district. The payments shall be paid in monthly installments and shall be made on or before the 20th of each month.

**5. Gifts.** A member municipality may use the proceeds from gifts or trust funds allocated for educational purposes to pay its share of the assessment.

**6. Failure to pay.** If a treasurer fails to pay any part of installment due on the

required dates, the treasurer of the community school district may issue his warrant for the amount of the tax remaining unpaid, to the county sheriff requiring him to levy by distress and sale on the real and personal property of any of the inhabitants living in the municipality where that default takes place. The sheriff or a deputy shall execute the warrant. The district school committee when collecting taxes within each member municipality, shall have the same authority as is vested in county officials for the collection of county taxes under the statutes.

7. Delinquent payments to the Maine School Building Authority. If a community school district, which has financed school construction through the Maine School Building Authority, is delinquent in its payment to the authority, the department shall make payment to the authority on behalf of the community school district. Payments may be made from any amounts properly payable to the district not exceeding the amount then presently due to the authority or from the department to the community school district.

§ 1804. Sharing costs

The following provisions apply to sharing district costs.

1. Formula. A community school district shall share its costs among the member municipalities on the basis of:

- A. The number of resident pupils in each municipality;
- B. The state valuation of each member municipality's real property as set in the calendar year prior to the district's fiscal year;
- C. In accordance with any combination of paragraphs A and B; or
- D. In accordance with any other formula authorized by the Legislature.

2. Amendment of formula. The procedure for amending the cost sharing formula shall be as follows.

A. When requested by a written petition of at least 10% of the number of voters voting in the last gubernatorial election in the municipalities comprising the community school district, the district school committee shall give at least 15 days' notice to each member municipality of a meeting to determine the necessity of reconsidering the method of sharing costs.

B. Each member municipality shall be represented by 2 representatives chosen by its municipal officers and one member of the district school committee chosen by the committee members from that municipality. A change in the method of sharing costs shall first be approved by a vote of a majority of those present and voting.

C. Municipal approval shall be in the same manner as the original formula was adopted when the community school district was formed. The total vote cast in each of the member municipalities shall be at least 20% of the number of votes cast in each of the member municipalities in the last gubernatorial election.

**D. A change in the cost-sharing formula shall be effective at the start of the next fiscal year which starts at least 90 days after the voters have approved it.**

#### **SUBCHAPTER IV**

#### **REORGANIZATION**

##### **§ 1851. Additions to the district**

A municipality not originally in the community school district may be included by the vote of all the municipalities concerned in a manner similar to that prescribed for establishing the community school district. The addition of a new municipality shall be under the terms and arrangements recommended by the district school committee.

##### **§ 1852. Withdrawal from the district**

If the voters of a member municipality have voted to withdraw from a community school district by a 2/3 vote of the legal voters present and voting at a special meeting, called and held in the manner provided by law for the calling and holding of town meetings, the withdrawal may be authorized by special Act of the Legislature on the terms contained in the special Act. A withdrawal may not be permitted while the community school district has outstanding indebtedness.

##### **§ 1853. Limitation on member school administrative districts**

A school administrative district may not dissolve under section 1603 if it is a member of a community school district which has outstanding debt.

##### **§ 1854. Districts formed by private and special Acts of the Legislature**

If the provisions of this chapter conflict with the provisions of any private and special Act of the Legislature which created a community school district, then the provisions of the private and special Act shall control.

#### **CHAPTER 107**

#### **SCHOOL UNIONS**

##### **§ 1901. Formation**

1. Commissioner's authority. The commissioner shall adjust the grouping of school administrative units within the State in accordance with this section.

2. Size. A school union shall include not less than 35 nor more than 75 teachers unless the commissioner, upon request of a school board, finds that because of geographic location or other reasons, it is to the advantage of the State and the municipalities that a school union shall include fewer than 35 or more than 75 teachers.

3. Combining unions. On presentation of a written plan of organization which has been approved by the school boards involved, the commissioner may combine 2 or more school unions, or their parts, into a larger school union.

A. The new school union may be administered by a superintendent of schools

and staff assistance, who may be employed by the joint committee as provided in section 1101.

**B.** The commissioner may adjust disbursements for supervision so that there will be no less in state support because of the reorganization.

**4.** Exception for existing school unions with over 35 teachers. Existing school unions employing over 35 teachers shall not be regrouped unless the proposed regrouping has been approved by a majority of the school board members in the school administrative units involved.

**5.** School administrative units with more than 75 teachers. A school administrative unit with more than 75 teachers may employ a superintendent of schools without uniting with other school administrative units for this purpose.

**A.** The school administrative unit may choose a superintendent in the same manner and for the same term, fix his salary and discharge him under the same conditions as superintendents employed under section 1101.

**B.** When a superintendent is chosen, the chairman and secretary of the school board shall certify to the commissioner, on forms prescribed by him, all facts relative to the employment of the superintendent including the amount of the salary to be paid.

**6.** Removal. If a school administrative unit having more than 75 teachers removes itself from an existing school union composed of not more than 2 units, the remaining unit shall, with the consent of its school board and the commissioner, be treated as though it had more than 75 teachers, provided that the remaining unit has more than 40 teachers.

**7.** Exception for remote administrative units. If the commissioner finds that a school administrative unit is remotely situated and that it is not practicable to combine it with other school administrative units for the purpose of employing a superintendent, he may place at the service of the school board of that unit the general agent for the schooling of the children in unorganized townships, or any other agent of the commissioner.

**A.** That agent shall, when assigned, serve as the superintendent of the school administrative unit. The agent shall have the same powers and shall perform the same service as superintendent of schools of municipalities. His visits to the schools of the school administrative unit shall be at intervals as directed by the commissioner.

**B.** The treasurer of the school administrative unit shall pay to the agent a sum agreed upon by the agent and that school administrative unit. In case of dispute, the commissioner shall determine the amount to be paid.

**8.** Exception for school administrative unit with fewer than 35 teachers. If a school administrative unit or a school union employs less than 35 teachers and, because of geographic location or other circumstances, it is not practicable to combine it with other school administrative units to form a school union, the

school board may provide supervisory service, when approved by the commissioner. In one of the following ways the school administrative unit or school union may:

- A. Employ a qualified person to serve as superintendent and as a supervising principal;
- B. Contract with another school administrative unit or school union for supervisory services; or
- C. Employ a qualified agent to fulfill supervisory needs.

**§ 1902. Joint committee of school unions**

The school boards of the school administrative units comprising a school union shall form a joint committee, which shall be, for the purposes of this chapter, the agent of each school administrative unit comprising the school union.

1. Delegation of authority by member school boards. The school board of a school administrative unit in a school union may authorize one of its members to act for the school board in the meetings of the joint committee. He may cast the votes for his school board.

2. Method of voting. The method of voting shall be as follows.

- A. The votes of the individual members of the joint committee shall be cast on a weighted basis in proportion to the population of the unit represented as compared with the total population of the units comprising the joint committee.
- B. To become effective, all actions of the joint committee shall be approved by a vote representing more than 1/2 of the population comprising the units which make up the joint committee.

3. Duties. The joint committee:

- A. Shall meet annually in December, at a day and place agreed upon by the chairman of the school boards comprising the union;
- B. Shall choose a chairman and a secretary;
- C. Shall, at its organizational meeting or as soon thereafter as possible and whenever a vacancy occurs, elect a superintendent as provided under section 1101;
- D. Shall apportion the costs for a superintendent under section 1101, among the school administrative units in proportion to the service to be performed and certify to the treasurer of each school administrative unit and to the commissioner the amounts to be paid; and
- E. May authorize a school administrative unit within the school union to serve as a contractual employer of teachers who provide services to more than one unit in the union. Employment shall be subject to section 1104 and Title 26, chapter 9-A.

**§ 1903. Appropriation for superintendent's salary**

School administrative units shall appropriate for the salary of the superintendent their proportion of the sum paid the superintendent, but not more than the amount certified by the joint committee to the municipal treasurer. The proportion to be paid by a municipality shall be paid out of the appropriation made for the support of maintenance of public schools.

**CHAPTER 109****UNION SCHOOLS****§ 2001. Union schools**

Adjoining municipalities on the written recommendation of their municipal school committees, may, by concurrent action, maintain or establish union schools for the benefit of the municipalities. They shall contribute to their support under the terms of the agreement.

1. **Establishment.** If a union school is desired, the municipalities shall apply to the commissioner. The commissioner shall prepare an agreement setting out the terms and conditions under which a union school may operate.

2. **Approval.** Before a union school may operate, each municipality shall approve the agreement by an affirmative vote acting under an appropriate article at a regular or special town meeting or city election.

**§ 2002. Financing of union schools**

1. **Apportionment of state school subsidy.** Amounts due from the State on account of union schools shall be paid to the municipality in which the students reside. The amounts to be contributed by each municipality for the maintenance of the school shall be determined in accordance with the terms of the agreement.

2. **Construction aid.** A union school shall be eligible for school construction aid on a project constructed as a result of the union school agreement. The aid shall be computed in the same manner as for a community school district as set forth in Title 20, sections 3457 to 3460.

**CHAPTER 111****MUNICIPAL SCHOOL COMMITTEE****§ 2101. Election of school committee members**

A municipality, not included in a school administrative district, shall elect at its annual meeting a school committee of 3 to hold office as provided in section 2107. The municipality shall fill vacancies in that committee at each subsequent annual meeting.

**§ 2102. Additional school committee members**

Notwithstanding section 2101 a town may vote at its annual meeting to have 5

members on the school committee and may elect by ballot 3 additional school committee members to serve with the 2 members whose terms have not expired.

**§ 2103. Alternate method of election of school committee members**

If a town has accepted Title 30, section 2061, relative to secret ballot, it may, at least 30 days before the annual meeting, hold a special town meeting to vote to have 5 members on the school committee.

**§ 2104. Neglect to choose committee**

A municipality failing to elect members of the school committee shall forfeit not less than \$30 nor more than \$200.

**§ 2105. School year**

Notwithstanding any other section of the statutes, school committees, with the approval of the commissioner, may adopt or amend rules necessary to implement an extended school year at the local level. The commissioner may make appropriate adjustments, not to exceed the allowable subsidy, to insure fair and equitable treatment in the distribution of state aid.

**§ 2106. Applicability of provisions to certain towns or cities**

Sections 2101 to 2103 and 2107 may not apply to municipalities whose charters specify the methods of selection and term of office of a school board; nor to municipalities authorized by private and special laws to otherwise choose a school board.

**§ 2107. Terms; vacancies; restrictions**

School committees first elected under section 2101 shall designate by lot members to hold office for one, 2 and 3 years respectively, in the manner as follows: One for one year; one for 2 years; and one for 3 years. The school committee shall certify the designation to the town clerk to be recorded. Thereafter, one member shall be chosen by ballot at the annual meeting of the town, to hold office for 3 years. The school committee members shall serve their terms as designated and an additional period until the next regular election of the municipality. The school committee may fill vacancies occurring between annual meetings, and the term of office of any member so chosen shall expire at the next annual meeting. Whenever the remaining members fail to appoint a person to fill a vacancy, it may be filled by election at a town meeting called for the purpose.

**§ 2108. Service without pay**

School committee members shall serve without pay, unless otherwise voted by the town.

**§ 2109. School district meetings**

1. District meetings. Where the inhabitants and territory of a single municipality constitute an incorporated school district, and the charter of the

district contains no provisions for the calling and holding of meetings of the district, meetings of the school district shall be called by the municipal officers, in the manner provided by law for the calling of town meetings, on written request signed by trustees or other executive officers of the district.

2. **Municipal meetings.** A lawfully called meeting of the inhabitants of the municipality shall be a lawful meeting of the school district for the transaction of school district business. If the business of the school district has been transacted at a lawfully called meeting of the inhabitants, the meeting is declared to be a legal and valid meeting of the school district, and all votes passed and all actions taken at that meeting which would have been legal had the meeting been a lawfully called meeting of the school district, are ratified and declared legal.

§ 2110. **Duties of school committees**

School committees shall perform the following duties.

1. **Management of schools.** They shall manage the schools and provide custody and care, including repairs and insurance on school buildings and all school property in the school administrative units.

2. **No prohibition on use for political activity.** The use of school buildings may not be denied to a person solely because use is requested for a political activity.

3. **Insurance premiums.** They may pay the premium of life, health, accident, hospitalization, major medical insurance in behalf of their employees and liability insurance for employees and school officers.

4. **General course of instruction; textbooks.** They may direct the general course of instruction and approve a uniform system of textbooks. A textbook thus approved may not be changed for 3 years unless by vote of the school committee.

5. **Tuition payment for attendance by those resident on territory ceded to United States.** They may prescribe the tuition for attendance of persons of the required age, resident in territory the jurisdiction of which has been ceded to the United States, included in or surrounded by the administrative unit.

6. **Determine those to attend each school.** They may determine which students shall attend each school, classify them and transfer them from school to school where more than one school is maintained at the same time.

7. **Students expelled or suspended.** They may expel an obstinately disobedient and disorderly student, after a proper investigation of his behavior, if found necessary for the peace and usefulness of the school. They may readmit him on satisfactory evidence of his repentance and amendment. The school committee may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules.

8. **Physiology and hygiene.** They shall make provisions for the instruction of all pupils in public schools or approved private schools in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.



9. Persons not immunized excluded. They may exclude, when requested to do so by the Director, Bureau of Health or if they deem it expedient, any person not having evidence of current immunization against smallpox, or diphtheria, tetanus, pertussis (whooping cough), rubeola (measles), rubella (German measles) or any other communicable illness for which immunization is available, unless the parent of the person shall present a signed statement that the parent is opposed to the immunization or a statement signed by a licensed physician indicating that the immunization is not medically advisable for the person. Should either of these statements be submitted, the person shall be excluded from school at the request of the Director, Bureau of Health when in his opinion epidemic occurrence of the particular illness makes the exclusion necessary for the protection of the public health.

10. Military leave of absence of teachers. Teachers who are members of the National Guard or other authorized state military or naval forces, and those teachers who are members of the Army, Air Force, Marines, Coast Guard or Naval Reserve may take a leave of absence from their respective duties, without net loss of income during periods of annual training not to exceed 17 calendar days in any calendar year as specified under the National Defense Act or Armed Forces Reserve Act of 1952, provided that the teachers have made every reasonable effort to perform their annual training during the period when school is not in session.

11. Salaries of persons absent. They may adjust the salaries of teachers, principles and other persons legally employed by them who are compelled to be absent from their school duties. No reduction in pay may be made if absence is caused by the bona fide observance of designated holidays in the church of their faith. This subsection and subsection 12 shall apply only in cases of persons who are employed on yearly contracts or on tenure of service and who hold the legal qualifications necessary for the positions.

12. Leave of absence. To increase the efficiency of the public schools and to permit a teacher, principal or other person to pursue a further course of study or to travel to be better qualified by education and culture for his position in the schools, school committees may grant to any teacher, principal or other person regularly employed by them a leave of absence for a period of not to exceed one year and for not more than half pay. A leave of absence may be granted only after 7 years and under those conditions and rules determined by the school board.

## CHAPTER 113

### MAINE-NEW HAMPSHIRE INTERSTATE SCHOOL COMPACT

#### ARTICLE I

#### GENERAL PROVISIONS

##### § 2201. Enters

The State of Maine enters into the following compact with the state of New Hampshire subject to the terms and conditions stated in this chapter.

**§ 2202. Statement of policy**

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

**§ 2203. Requirement of congressional approval**

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

**§ 2204. Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE II

### PROCEDURE FOR FORMATION OF AN INTERSTATE SCHOOL DISTRICT

#### § 2205. Creation of planning committee

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### § 2210. Approval by state boards

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

#### § 2211. Adoption by member districts

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

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

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

Yes ( )                      No ( )

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

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

#### § 2212. Resubmission

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

### ARTICLE III

#### POWERS OF INTERSTATE SCHOOL DISTRICTS

##### § 2213. Powers

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

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

#### ARTICLE IV

##### DISTRICT MEETINGS

###### § 2214. General

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

###### § 2215. Eligibility of voters

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

###### § 2216. Warning of meetings

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



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

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

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

**§ 2218. Return of warrant**

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

**§ 2219. Organization meeting**

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

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

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

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

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

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

§ 2220. Annual meetings

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

1. Officers. Necessary officers shall be elected.

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

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

§ 2221. Special meetings

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

§ 2222. Certification of records

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

§ 2223. Method of voting at school district meetings

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

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

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

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

## ARTICLE V

### OFFICERS

#### § 2224. Officers; general

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

#### § 2225. Board of directors

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

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

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

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

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

**§ 2226. Chairman of the board**

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

**§ 2227. Vice-chairman of the board of directors**

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

**§ 2228. Secretary of the board**

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

**§ 2229. Moderator**

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

**§ 2230. Clerk**

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

**§ 2231. Treasurer**

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

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

§ 2232. Auditors

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

§ 2233. Superintendent

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

§ 2234. Vacancies

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

## ARTICLE VI

### APPROPRIATION AND APPORTIONMENT

§ 2235. Budget

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

§ 2236. Appropriation

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

§ 2237. Apportionment of appropriation

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

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

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

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

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

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

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

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

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

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

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

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

**ARTICLE VII****BORROWING****§ 2240. Interstate district indebtedness**

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

**§ 2241. Temporary borrowing**

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

**§ 2242. Borrowing for capital projects**

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

**§ 2243. Authorization**

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

**§ 2244. Sale of bonds and notes**

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

**§ 2245. Proceeds of bonds**

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

**§ 2246. State aid programs**

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



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

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

#### § 2247. Tax exemption

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

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

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

**§ 2249. Valuation**

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

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

**§ 2250. Reimbursement to member district**

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

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

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

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

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

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

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

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

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

## ARTICLE X

### APPLICABILITY OF NEW HAMPSHIRE LAWS

#### § 2252. General school laws

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

#### § 2253. New Hampshire state aid

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

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

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

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

**§ 2255. Suit and service of process in New Hampshire**

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

**§ 2256. Employment**

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

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

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

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

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

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

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

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

## ARTICLE XI

### APPLICABILITY OF MAINE LAWS

#### § 2257. General school laws

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

#### § 2258. Maine state aid

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

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

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

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

**§ 2260. Suit and service of process in Maine**

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

**§ 2261. Employment**

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

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

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

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

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

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

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

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

**§ 2262. Studies**

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

**§ 2263. Textbooks**

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

**§ 2264. Transportation**

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

**§ 2265. Location of schoolhouses**

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

**§ 2266. Fiscal year**

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

**§ 2267. Immunity from tort liability**

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

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

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

**§ 2269. Amendments**

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

**§ 2270. Inconsistency of language**

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

**§ 2271. Separability**

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

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

The following provisions shall apply to school days.

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

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

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

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

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



**§ 3002. Holidays**

The following provisions shall apply to school holidays.

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

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

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

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

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

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

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

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

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

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

**§ 3003. Facilities**

The following provisions shall apply to school facilities.

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

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

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

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

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

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

#### § 3004. Textbooks

The following provisions shall apply to textbooks.

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

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

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

#### § 3005. Secret societies prohibited

Secret societies shall be prohibited as follows.

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

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

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

#### § 3006. Dissemination of information

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

#### § 3007. Privileged communications

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

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

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

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

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

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

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

#### § 3008. Civil liability

The following provisions apply to civil liability.

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

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

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

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

### CHAPTER 203

#### STUDENT ELIGIBILITY

##### § 3101. Age

The following provisions apply to enrollment in a public school.

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

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

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

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

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

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

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

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

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

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

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

#### § 3102. Residence

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### § 3104. Special expenses

The following provisions apply to special expenses.

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

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

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

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

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

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

3. Tuition for certain residents. A superintendent shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(1) Either:**

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER 205

### SCHOOL RECORDS

#### SUBCHAPTER I

#### STUDENT RECORDS

##### § 3201. First enrollment

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

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

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

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

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

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

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

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

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

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

##### § 3202. Attendance records

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

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



- A. The name of each student;
- B. His birth date;
- C. Dates of his entering and leaving school in the unit;
- D. The number of days attended; and
- E. The number of days late for school.

3. Access. Attendance records shall be made available to the school board at any time.

4. Duty of record keeper. The record keeper shall provide the school board with the information they request whenever they request it.

**§ 3203. Annual student count**

The following provisions apply to the annual counting of students.

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

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

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

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

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

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

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

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

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

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

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

**§ 3204. Financial records**

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

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

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

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

**A. The Department of Audit;**

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

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

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

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

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

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

**§ 3205. Federal audits**

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

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

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

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

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

**§ 3206. Annual report**

The following provisions apply to annual reports.

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

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

**SUBCHAPTER II  
EMPLOYEE RECORDS**

**§ 3251. Employee records**

The following provisions apply to employee records.

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

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

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

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

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

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

(7) Social Security number.

**§ 3252. Employee review**

The following provisions apply to employee review of records.

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

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

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

A. Formal or informal work evaluation; and

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

**CHAPTER 207**

**ATTENDANCE**

**SUBCHAPTER I**

**ATTENDANCE**

**§ 3301. Compulsory attendance**

The following provisions apply to compulsory attendance.

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

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

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

B. A person who has:

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

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

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

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

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

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

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

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

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

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

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

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

#### **§ 3302. Work programs**

**The following provisions apply to work programs.**

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

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

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

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

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

**§ 3303. Administration**

1. School board's responsibility. School boards shall administer this subchapter.

2. Rules. School boards shall adopt rules to carry out this subchapter. They shall file a copy with the commissioner.

3. Commissioner's responsibility. The commissioner shall guide school boards in adopting these rules.

**SUBCHAPTER II**  
**HABITUAL TRUANTS**

**§ 3351. Habitual truants**

1. Definition. A person is an habitual truant if he is:

A. Subject to sections 3301 and 3302; and

B. Absent from school without excuse for the equivalent of 10 full days, or for at least 1/2 day on 7 consecutive school days, within any 6-month period.

2. Procedure. The following provisions apply to procedure when a person is an habitual truant.

A. If a principal of a public school determines that a person is an habitual truant, he shall inform the superintendent. The superintendent shall first try to correct the problem informally.

B. If the superintendent is unable to correct the problem informally, he shall refer the matter to the school board along with the principal's report and any other useful information.

C. The school board shall call a hearing and shall notify the parent of the following in writing at least 7 days in advance:

(1) Date and time of the hearing;

(2) Purpose of the hearing;

(3) Their right to inspect the child's attendance records and principal's report; and

(4) The necessity of their and the child's presence at the hearing.

D. If the school board determines that the person is an habitual truant, it shall either:

(1) Order the person to comply with section 3301, subsection 1, and advise the parent of his responsibility under section 3301, subsection 3; or

(2) Waive the requirements of section 3301, subsection 1, if the person is 14 years of age or older.

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

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

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

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

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

**§ 3352. Attendance officers**

**The following provisions apply to attendance officers.**

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

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

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

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

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

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

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

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

5. Penalties. The following provisions apply to penalties.

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

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

#### § 3353. Enforcement

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

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

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

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

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

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

4. Penalties. The following provisions apply to penalties.

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

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



**SUBCHAPTER III****DROPOUTS****§ 3401. Statement of purpose**

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

**§ 3402. Definitions**

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

**§ 3403. Positive action committee**

The following provisions apply to the positive action committee.

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

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

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

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

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

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

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

A. The positive action committee shall:

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

B. The school board shall:

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

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

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

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

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

#### § 3404. Programs

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

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

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

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

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

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

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

#### CHAPTER 209

#### HEALTH AND SAFETY

#### SUBCHAPTER I

#### GENERAL PROVISIONS

##### § 3501. Student health

The following provisions apply to student health.

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

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

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

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

##### § 3502. Firearms

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

2. Exception. Subsection 1 shall not apply to:

A. Law enforcement officials; or

B. A supervised educational program.

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

## **SUBCHAPTER II**

### **SCHOOL LUNCH AND MILK PROGRAM**

#### **§ 3551. Acceptance of federal law**

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

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

#### **§ 3552. School food service programs**

Public schools shall provide school food service programs as follows.

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

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

A. The school board has held a public hearing on its proposed application; and

B. One of the following conditions are met:

(1) The school administrative unit lacks space for the program and there is no appropriate alternative source of meals for the students;

(2) It is impossible for the unit to contract for or otherwise obtain Type A meals for its students; or

(3) The lack of need for the program was evident at the public hearing.

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

#### § 3553. Federal funds

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

### SUBCHAPTER III

#### CHEST X RAYS

#### § 3601. Tuberculosis controls

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

A. "Infectious tuberculosis" means a disease demonstrated by symptoms which lead to a medical diagnosis of active tuberculosis.

B. A person remains "infectious" until:

(1) Tuberculosis has been eliminated as the cause of the symptoms; or

(2) Tuberculosis has been made "inactive" as defined by the American Thoracic Society.

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

3. Current employees. Current employees excluded from employment under

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

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

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

B. The certificate shall:

(1) State:

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

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

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

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

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

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

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

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

5. Retesting. The following provisions apply to retesting.

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

B. The certificate shall:

(1) State:

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

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

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

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

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

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

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

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

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

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

#### SUBCHAPTER IV SCHOOL PROGRAMS

##### § 3651. School physicians

The following provisions apply to school physicians.

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

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

3. Duties. A school physician shall:

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

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

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

**§ 3652. Examination of students**

Examination of students shall be conducted as follows.

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

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

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

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

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

**§ 3653. Miscellaneous**

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

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

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

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

Sanitary facilities shall be provided as follows.

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

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

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



C. Installed so that privacy, cleanliness and supervision are assured; and

D. Free from all obscene markings.

2. Vaults and tanks. Each school administrative unit shall provide clean and operating vaults, tanks and accessories.

3. Inspectors. The school board shall inspect annually the sanitary conditions of the school administrative unit's school buildings and the compliance with this section.

4. Rules. The state board may adopt or amend rules to implement this section.

5. Penalty. Failure to comply with this section shall be subject to section 163.

## SUBCHAPTER VI

### IMMUNIZATION

#### § 3751. Immunization

The following provisions shall apply to immunization.

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

A. "Disease" means poliomyelitis, diphtheria, pertussis, tetanus, measles and rubella.

B. "School" means a public or private school.

2. Admission to school. A student may not be admitted to school without a certificate or other acceptable evidence of immunization unless his parent:

A. Agrees in writing to have his child immunized within 90 days;

B. Consents in writing to his child being immunized by a qualified public official or employee; or

C. States in writing that he does not want his child immunized for any of the following reasons:

(1) A physician states in writing that immunization may threaten the student's health;

(2) A physician states in writing that the student has already had the disease against which immunization is required;

(3) The parent is a bona fide member or adherent of a recognized religious organization whose teachings are contrary to this immunization requirement; or

(4) The parent is opposed to immunization for moral, philosophical or other personal reasons.

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

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

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

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

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

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

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

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

## CHAPTER 211

### CURRICULUM

#### § 3801. Physical education

Physical education shall be provided as follows.

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

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

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

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

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

**§ 3802. Instruction in values**

Instruction in values shall be provided as follows.

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

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

**§ 3803. Instruction in patriotism**

Instruction in patriotism shall be provided as follows.

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

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

- A. The cost, object and principles of our government;
- B. The inestimable sacrifices made by our forefathers;
- C. The important contribution made by all who have served in the armed services of our country since its inception; and
- D. To love, honor and respect the flag.

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

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

**§ 3804. Bible reading**

Bible reading shall be provided as follows.

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

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

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

**§ 3805. Moral instruction**

Moral instruction shall be provided as follows.

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

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

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

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

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

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

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

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

## CHAPTER 213

### ELEMENTARY SCHOOLS

#### § 3901. Accreditation

The following provisions apply to accreditation.

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

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

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

## CHAPTER 215

### SECONDARY SCHOOLS

#### SUBCHAPTER I

#### APPROVAL AND ACCREDITATION

#### § 4001. Approval

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

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

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

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

4. Certified teachers. It employs only certified teachers.

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

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

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

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

9. Size. It meets the following size requirements.

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

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

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

#### § 4002. Accreditation

For accreditation the following shall be required.

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

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

A. Quality of instruction;

**B. School facilities; and**

**C. Curriculum content.**

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

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

**§ 4003. Inspection of schools**

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

**§ 4004. Junior high school defined**

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

**§ 4005. Requirements for graduation**

The following shall be requirements for graduation.

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

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

## **SUBCHAPTER II**

### **OUTSIDE STUDENTS**

**§ 4051. Accepting outside students**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **§ 4053. Reimbursement**

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4054. Tuition payments for students in vocational education programs

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

**SUBCHAPTER III****ACADEMIES****§ 4101. Approval of instruction**

The approval of instruction in academies shall be as follows.

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

A. The academy is prepared to give instruction equivalent to that required to be given in public secondary schools;

B. Students attending the academy are qualified to receive the instruction; and

C. The teachers in the academy are certified or licensed to give instruction in secondary school studies.

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

**§ 4102. Rules of commissioner**

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

**§ 4103. Audit**

The following audit shall be made annually.

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

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

**§ 4104. Penalty for noncompliance**

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

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

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

**§ 4151. Conversion to public school**

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

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

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

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

A. The municipal officers, trustees of the school fund, community school district trustees or school board shall be a board of trustees to take and hold property for maintaining a public secondary school.

B. On receiving property, they shall use proper diligence to make it produce income for the support of the public secondary school.

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

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

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

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

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

## CHAPTER 217

### UNORGANIZED TERRITORY

#### SUBCHAPTER I

##### GENERAL PROVISIONS

###### § 4201. Definitions

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

1. Unorganized territory. “Unorganized territory” means territory not part of a municipality.

2. Unorganized unit. “Unorganized unit” means an unorganized township, gore, strip, tract, surplus, point, patent, peninsula, island, deorganized town or plantation or any other distinct portion of the unorganized territory.

#### SUBCHAPTER II

##### SCHOOL PRIVILEGES

###### § 4251. School privileges

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

###### § 4252. Elementary pupils

1. Elementary school privileges provided. The commissioner may provide elementary school privileges by establishing and maintaining elementary schools in the unorganized territory or by sending the students to another public school as tuition students.

2. Admission by receiving school. Tuition students sent to a public school shall be admitted by the receiving school on receiving notice by the commissioner.

3. Benefits. Tuition students shall be entitled to all privileges and benefits and subject to the same rules as resident students of the school administrative unit.

4. Term. The minimum school year shall be 36 weeks.

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

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

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

**§ 4253. Secondary students**

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

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

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

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

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

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

**§ 4254. Other students**

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

**§ 4255. Children on government reservations**

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

**SUBCHAPTER III**

**COMMISSIONER'S POWERS**

**§ 4301. General powers**

The commissioner shall have the following general powers.

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

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

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

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

#### § 4302. General laws applicable

The following general laws shall apply.

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

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

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

#### § 4303. Census

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

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

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

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

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

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

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

#### § 4305. Taking of land

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

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

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

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

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

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



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

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

## SUBCHAPTER IV

### FINANCING

#### § 4351. Unorganized Territory School Fund

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

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

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

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

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

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

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

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

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

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

**§ 4353. School tax rate**

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

**A. The cost of providing schools shall equal:**

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

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

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

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

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

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

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

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

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

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

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

#### § 4354. Assessments repealed

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

#### § 4355. Assessment for capital outlay

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

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

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

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

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

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

**§ 4356. Assessment basis; validity**

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

**§ 4357. Assessment and collection**

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

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

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

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

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

**§ 4360. Assessments repealed**

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

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

**§ 4401. Organization of unorganized unit**

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

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

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

**§ 4403. Failure of civil organization**

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

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

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

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

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

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

**§ 5001. Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **§ 5002. Cooperation with federal programs**

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

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

**§ 5051. Policy and purpose**

It is the policy of the State that:

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

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

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

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

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

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

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

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

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

Each school administrative unit shall:

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

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

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



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

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

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

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

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

#### **§ 5053. Medical examination or treatment**

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

#### **§ 5054. Duties of the commissioner**

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

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

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

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

##### **C. Shall:**

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

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

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

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

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

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

#### § 5055. Investigation of noncompliance

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

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

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

A. On receipt of a complaint; or

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

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

#### § 5056. Hearing procedures

The following provisions shall apply to hearings.

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

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

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

2. Request for a local hearing and appeal. A parent or surrogate parent may:

A. Request a local hearing concerning a school administrative unit's performance of the duties listed in section 5052 with respect to his child;

B. Appeal the decision reached at the local hearing to the state board; and

C. Appeal the decision of the state board to a state court of competent jurisdiction or to the United States District Court.

3. Hearing official. The State shall train impartial officials to hear appeals presented to the state board.

**§ 5057. Savings provision**

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

**SUBCHAPTER II  
PROGRAMS**

**§ 5101. Local programs**

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

**§ 5102. Contractual programs; approval**

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

**§ 5103. Regional programs; approval**

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

1. Compliance. A program or service established through this agreement shall be subject to approval by the commissioner.

2. Special provisions. A program shall specify that:

A. One of the school administrative units shall serve as fiscal agent;

B. No requirement exists for separate budget approval and taxation; and

C. School construction may not be proposed for special education purposes.

3. Plan. A plan for a regional program shall be subject to approval by the commissioner prior to its implementation. The plan shall specify:

A. The objectives and functions to be performed by the regional program;

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

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

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

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

- (1) May withhold financial aid from the school administrative unit until it complies with his order; and**
- (2) Shall refer the matter to the Attorney General, who shall take appropriate action to bring the school administrative unit into compliance.**

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

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

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

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

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

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

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

**§ 5105. Other programs**

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

**§ 5106. State licensed agencies**

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

**SUBCHAPTER III**

**FINANCES**

**§ 5151. State aid**

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

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

**§ 5152. Tuition rates**

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

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER 305

### HANDICAPPED PRESCHOOL CHILDREN

#### § 5201. Purpose

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

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

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

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

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

#### § 5203. Interdepartmental coordination

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

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

**§ 5204. Early childhood consultant**

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

**§ 5205. Additional program**

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

**CHAPTER 307**

**PRIVATE AND STATE OPERATED SCHOOLS**

**§ 5301. Private schools**

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

**§ 5302. State institutions**

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER 309

### MENTAL RETARDATION

#### § 5401. Teacher education programs

The following provisions shall apply to teach education programs.

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

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

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

#### § 5402. Facilities

The following provisions shall apply to facilities.

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

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

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

## CHAPTER 311

### GIFTED CHILDREN

#### § 5501. Purpose



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

**§ 5502. Grants to school administrative units**

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

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

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

3. Time limits. The following limits shall apply.

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

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

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

**§ 5503. Available funds**

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

**SUBPART 2**

**VOCATIONAL EDUCATION**

**CHAPTER 313**

**SECONDARY VOCATIONAL EDUCATION**

**SUBCHAPTER I**

**GENERAL PROVISIONS**

**§ 5601. Acceptance and compliance with federal law**

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

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

**§ 5602. Definitions**

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

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

**§ 5603. Custodian of funds**

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

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

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

The state board may:

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

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

**§ 5605. Eligibility requirements**

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

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

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

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

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

3. Requirements. Vocational centers shall:

A. Provide programs for persons:

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

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

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

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

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

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

§ 5652. Department budget estimates

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

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

§ 5653. Tuition for students set out of state

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

§ 5654. Tuition for out-of-state students

The tuition charge per nonresident student shall be determined as follows.

1. Primary method. The per pupil cost shall be determined by:

A. Adding the amounts paid for:

- (1) Teachers' salaries;
- (2) Fuel;
- (3) Janitorial services;
- (4) Textbooks;
- (5) Reference books;
- (6) School supplies for desk and laboratory use;
- (7) Public utility services;
- (8) Replacement of instructional equipment;
- (9) Fire insurance; and
- (10) Compensation for the director and his assistants.

B. Adjusting the amounts in paragraph A by the allowable percentages set forth in section 4053; and

C. Dividing this sum by the average daily attendance of all regularly enrolled students in the vocational center or vocational region.

2. Alternate method. When the cost of fuel, janitorial services, public utility services or insurance for the vocational education facilities cannot be separated from similar costs for other facilities, these costs shall be prorated on the basis of the square footage of floor space in the vocational education sections in relation to the total floor space to which those expenditures apply.

§ 5655. Tuition for in-state students

Schools receiving tuition students may charge a tuition rate not to exceed 2/3 of the tuition rate as computed under section 4053 to students who are enrolled in regular school day vocational education programs at vocational centers, vocational satellite programs or vocational regions.

SUBCHAPTER III

VOCATIONAL CENTERS

§ 5701. Vocational centers

The vocational centers shall operate at Augusta; Bath; Biddeford; SAD No. 61, (Bridgton); Caribou; SAD No. 46, (Dexter); SAD No. 9, (Farmington); Lewiston; Portland; SAD No. 1, (Presque Isle); SAD No. 54, (Skowhegan); Waterville; and Westbrook.

§ 5702. State board approval

1. Plans for vocational centers. A vocational center shall be maintained and operated under a plan approved by the state board. A plan shall include: A survey of the educational needs; the employment opportunities; the programs to be offered; and the locations and the area to be served.

2. Plans for vocational satellite programs. The state board may approve plans for a vocational satellite program if:

- A. A vocational center requests a vocational satellite program;
- B. The school board operating the vocational center approves the plan and supplies information documenting the need for a vocational satellite program; and
- C. The request includes the commissioner's approval.

§ 5703. Programs

A vocational center shall provide programs of education and training in trade, industrial, agricultural, business, distributive and service occupations.

§ 5704. Vocational satellite programs

The following provisions shall apply to vocational satellite programs.

1. Financial responsibility for vocational satellite program. The school board responsible for operating the vocational satellite program shall assume full financial responsibility for paying the operating costs of that program. It shall

receive the state subsidy for the program and tuition income. These programs shall be financed through available funds.

2. Programs facilities and equipment; school construction aid. The school board, where the vocational satellite program is operated shall:

A. Furnish the necessary facilities and equipment; and

B. Be eligible for school construction aid if new facilities are required and approved.

3. Nomination of operating personnel. The superintendent operating the vocational satellite program, in consultation with the director of the vocational center, shall nominate personnel to operate the programs. The school board shall appoint personnel.

4. Supervision. The school principal and the director of the vocational center shall jointly make recommendations to the local superintendents and shall supervise personnel working in the vocational satellite program.

5. Center operated vocational satellite programs. Vocational centers may operate vocational satellite programs in municipalities served by the center when the programs require only part-time instruction and are approved by the commissioner.

#### § 5705. Advisory committees

There shall be an advisory committee responsible for coordinating vocational education in each vocational center.

1. Membership. Membership on the advisory committee shall consist of:

A. The superintendent of the participating secondary schools or his representative; and

B. One board member chosen from each participating school board by its membership.

2. Meetings. The advisory committee shall meet quarterly.

3. Duties. The committee shall prepare and submit an annual report on the vocational center and vocational satellite programs, to the state board and to each municipality served by the center.

#### § 5706. Local director

A school administrative unit operating a vocational center shall employ on the staff of the center a local director of vocational education.

1. Qualifications. The director shall meet the qualifications prescribed by the state board.

2. Administrative status. The director shall be responsible to the appropriate administrative officer of the school administrative unit operating the center.

## SUBCHAPTER IV

### VOCATIONAL REGIONS

#### § 5751. Vocational regions

1. **Legislative intent.** It is the intent of the Legislature that the vocational regions shall deliver vocational education to their respective areas in accordance with this subchapter, and they shall function as extensions of the secondary schools within their region.

2. **Boundaries.** The vocational regions shall have boundaries as follows:

A. **Region 1. NORTHERN AROOSTOOK COUNTY.** Units located in this area shall include: Madawaska; SAD No. 10-Allagash; SAD No. 24-Van Buren, Cyr Plt., Grand Isle and Hamlin Plt.; SAD No. 27-Eagle Lake, Fort Kent, New Canada Plt, St. Francis Plt., St. John Plt., Wallagrass Plt. and Winterville Plt.; SAD No. 33-Frenchville and Saint Agatha.

B. **Region 2. SOUTHERN AROOSTOOK COUNTY.** Units located in this area shall include: Bancroft; Benedicta; Crystal; Dyer Brook; Hersey; Island Falls; Linneus; Ludlow; Merrill; Moro Plt.; New Limerick; Oakfield; Orient; Smyrna; SAD No. 14-Danforth and Weston; SAD No. 25-Mt. Chase Plt., Patten, Sherman and Stacyville; SAD No. 29-Hammond Plt., Houlton, Littleton and Monticello; SAD No. 70-Amity, Cary Plt., Haynesville and Hodgdon.

C. **Region 3. NORTHERN PENOBSCOT COUNTY.** Units located in this area shall include: Carroll Plt.; Codyville; Drew Plt.; East Millinocket; Glenwood Plt.; Lakeville Plt.; Macwahoc Plt.; Medway; Millinocket; Reed Plt., Topsfield; Vanceboro; Woodville; SAD No. 30-Lee, Prentiss Plt., Springfield, Webster Plt. and Winn; SAD No. 31-Burlington, Edinberg, Enfield, Howland, Lowell, Maxfield, Passadumkeag and Seboeis Plt.; SAD No. 67-Chester, Lincoln and Mattawamkeag.

D. **Region 4. SOUTHERN PENOBSCOT COUNTY.** Units located in this area shall include: Alton; Amherst; Aurora; Bangor; Bradley; Brewer; Dedham; Glenburn; Grand Falls Plt.; Great Pond Plt.; Greenbush; Greenfield; Hermon; Milford; Old Town; Orono; Orrington; Osborn Plt.; Veazie; SAD No. 22-Hampden, Newburgh and Winterport; SAD No. 23-Carmel and Levant; SAD No. 38-Dixmont and Etna; SAD No. 63-Clifton, Eddington and Holden; SAD No. 64-Bradford, Corinth, Hudson, Kenduskeag and Stetson.

E. **Region 6. WASHINGTON COUNTY.** Units located in this area shall include: Alexander; Baileyville; Baring Plt.; Beals; Beddington; Calais; Centerville; Charlotte; Cooper; Crawford; Deblois, Dennysville; Eastport; Grand Lake Stream Plt.; Jonesboro; Jonesport; Machias; Marshfield; Meddybemps; Northfield; No. 14 Plt.; No. 21 Plt; Pembroke; Perry; Princeton; Robinston; Roque Bluffs; Talmadge; Waite; Wesley; Whitneyville; SAD No. 37-Addison, Cherryfield, Columbia, Columbia Falls, Harrington and Milbridge; SAD No. 19-Lubec; SAD No. 77-Cutler, East Machias, Machiasport and Whiting.

**F. Region 7. WALDO COUNTY.** Units located in this area shall include: SAD No. 3-Brooks, Freedom, Jackson, Knox, Liberty, Monroe, Montville, Thorndike, Troy, Unity and Waldo; SAD No. 34-Belfast, Belmont, Morrill, Northport, Searsmont and Swanville; SAD No. 56-Frankfort, Searsport and Stockton Springs.

**G. Region 8. KNOX COUNTY.** Units located in this area shall include: Appleton; Hope; Islesboro; Lincolnville; SAD No. 5-Owls Head, Rockland and South Thomaston; SAD No. 7-North Haven; SAD No. 8-Vinalhaven; SAD No. 28-Camden and Rockport; SAD No. 40-Friendship, Union, Waldoboro, Warren and Washington; SAD No. 50-Cushing, St. George and Thomaston.

**H. Region 9. NORTHERN OXFORD COUNTY.** Units located in this area shall include: Hanover; Peru; Rumford; SAD No. 21-Canton, Carthage and Dixfield; SAD No. 43-Byron, Mexico and Roxbury; SAD No. 44-Andover, Bethel, Greenwood, Newry and Woodstock.

**I. Region 10. EASTERN CUMBERLAND-SAGADAHOC COUNTY.** Units located in this area shall include: Brunswick; Freeport; SAD No. 62-Pownal; SAD No. 75-Bowdoin, Bowdoinham, Harpswell and Topsham. This region and the vocational center at Bath shall coordinate programs and activities.

**J. Region 11. SOUTHERN OXFORD COUNTY.** Units located in this area shall include: SAD No. 17-Harrison, Hebron, Norway, Otisfield, Oxford, Paris, Waterford and West Paris; SAD No. 39-Buckfield, Hartford and Sumner. This region and the vocational center at SAD No. 61 (Bridgton) shall coordinate programs and activities.

**3. Central Aroostook County.** Central Aroostook County shall also be a vocational region. Public secondary schools located at: Ashland; Caribou; Easton; Fort Fairfield; Limestone; Mars Hill; Presque Isle and Washburn shall be served by regional vocational centers located in Presque Isle and Caribou.

**A.** Notwithstanding provisions of sections 5753, 5754 and 5756, these regional centers shall be governed by their respective school boards but shall have an advisory committee responsible for coordinating vocational education for the Central Aroostook County Area.

**B.** Membership on the advisory committee shall consist of the superintendents of the participating municipalities with public secondary schools and one board member chosen from each school board by its membership.

**C.** The advisory committee shall meet quarterly and shall be responsible for preparing and submitting an annual report on vocational education to the state board and to each school administrative unit within the region.

**4. Validation.** Each vocational region authorized and organized under the Public Laws of 1973, chapter 605, is hereby validated, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity which



may have occurred in the organization of the region or in the selection of the cooperative board of that region.

5. Changing boundaries. The boundaries of the vocational regions shall not be changed except that a unit contracting for secondary education outside of its region shall become a part of the region with which it contracts.

**§ 5752. Program approval**

The state board shall approve vocational programs in the vocational regions as funding becomes available, and on the basis of plans submitted by the cooperative boards.

**§ 5753. Cooperative boards**

The vocational regions shall be administered by a cooperative board organized as follows:

1. Creation. The school boards of the school administrative units, at a joint meeting called by the commissioner, shall determine by majority vote:

- A. The size of the cooperative board;
- B. The number to serve from each unit or group of units;
- C. The method of selecting representatives from each unit;
- D. The method of sharing costs; and
- E. The number of units to be jointly represented by a cooperative board member.

2. Role of municipal officers. The municipal officers of each school administrative unit within the region shall be invited to the joint meeting to present testimony on cooperative board membership and the methods of sharing costs among the units.

3. Voting. Each school board shall caucus with the municipal officers within that unit. In the joint meeting, the school board shall cast their votes on the issues in accordance with the majority vote of the caucus of their school board and municipal officers.

4. Process of appeal. A school board may appeal decisions on the method of sharing cost and the method of apportioning representatives on the cooperative board of the state board. The state board decision shall be final and binding on the school administrative units within the region.

5. Formation. Cooperative boards shall be formed as follows.

- A. When the member school administrative units of a cooperative board have determined the representation and the method of sharing costs, the superintendent in the region shall call meetings of the school boards. The school boards shall appoint their members of the cooperative board.

**B. Members of the cooperative board shall consist of residents from each school administrative unit in proportion to the population of that unit to the whole region. Residents who, by holding another office, have duties conflicting with those of the cooperative board may not be selected.**

**C. Cooperative board members shall take an oath or affirmation in the same form as prescribed in section 1451 for directors of school administrative districts. A certificate of the oath or affirmation shall be on file in the office of the cooperative board.**

**6. Organization of the cooperative board. The organization of the cooperative board shall occur as follows.**

**A. The superintendent shall call a meeting of the cooperative board members to organize.**

**B. The board shall:**

**(1) Elect a chairman and vice-chairman;**

**(2) Elect a secretary who does not have to be a member of the board;**

**(3) Adopt a constitution or by-laws for the calling of and conducting of board meetings; and**

**(4) Elect a treasurer. He shall give a bond to the board with the sum and sureties established by the board. This bond shall be deposited with the chairman. The expenses of the bonds shall be paid by the cooperative board. The treasurer does not have to be a member of the cooperative board.**

**7. Return and certificate. The secretary shall immediately file a return with the state board listing the names of the officers of the board and certifying that the board has been properly organized.**

**8. Issuance of certificate. The state board may issue a certificate of organization or reorganization for each vocational region. The issuance of the certificate shall be conclusive evidence of lawful organization. The original certificate shall be kept on file by the secretary of each region, and copies shall be placed on file in the office of the commissioner.**

**9. Vocational region considered a political subdivision. A vocational region shall be a political subdivision within the meaning of Title 5, section 1222, subsection 6 and a quasi-municipal corporation within the meaning of Title 30, section 5053, and all the provisions of that section shall be applicable to them.**

**10. Voter approval. Vocational regions may vote on articles submitted by the cooperative board using the procedures set forth in sections 1551 to 1554.**

#### **§ 5754. Cooperative board authority**

**1. Duties. A cooperative board shall have all the rights and duties of a school board as provided in sections 1051 to 1053, 1104, 1353, 1455 to 1456, 1459, 2105 and 2110, excluding subsections 7 and 8.**

2. **Review of agreement.** The cooperative board, with the superintendent's advisory committee, shall annually review the cooperative agreement. It may amend the agreement with respect to the administration of vocational education in the region. A revision of the agreement shall be subject to approval by majority vote of the school boards of the region as provided for budget approval under section 5757. A copy of the cooperative agreement and amendments shall be filed with the commissioner.

3. **Authority.** A cooperative board may:

A. Borrow funds in anticipation of the member unit's payment of its share of the vocational regional budget. Loans:

(1) Shall be repaid within one year; and

(2) May not at any time exceed  $\frac{3}{4}$  of the budget approved by the member units of the region;

B. May expend available revenue to meet debt service and security and maintenance of property costs; and

C. Accept and expend special grants from state and federal sources.

3. **Compensation.** Cooperative board members shall be paid up to \$10 for each meeting attended.

#### § 5755. Vocational director

1. **Employment.** The cooperative board shall employ a certified vocational director. The board may appoint the director to serve as the:

A. Administrative officer of the region; and

B. Treasurer and secretary to the board.

2. **Duties.** The administrative officer may nominate teachers and shall perform other duties as assigned by the board.

3. **Ex officio administrative officer.** If the cooperative board does not designate the vocational director to serve as administrative officer, the board may enter into an agreement with a superintendent within the region to serve as ex officio administrative officer for the region.

#### § 5756. Superintendents' advisory committee

The superintendents within each region shall serve as an advisory committee to the cooperative board. This committee shall:

1. **Right to attend cooperative board meetings.** Be invited to attend and receive notice of all meetings held by the cooperative board; and

2. **Meeting with vocational director.** Meet with the vocational director at least 4 times each year to review proposed programs, budgets and issues relating to vocational education.

**§ 5757. Vocational education budget for vocational regions**

The following provisions shall apply to funding and budget of a vocational education region.

1. **Funding of operating and construction costs.** The regions shall appropriate the necessary local funds, according to the agreement for sharing costs, to pay the operating and construction costs for vocational education regional programs as may be required by sections 5752 and 5754.

2. **Public hearings on budget.** Prior to the approval of the vocational education budget, the cooperative board shall hold at least 2 public hearings on the budget within the region.

3. **Submission of budget.** The budget, as approved by the cooperative board, shall be submitted to the legislative body of each school administrative unit within the region in the form of 2 articles in the budget meeting warrant or in the form of 2 orders in a municipal council meeting.

A. The articles or orders should be in substantially the following form:

“Shall the regional vocational budget as approved by the cooperative board for the year \_\_\_\_\_ be approved in the amount of \$     ?”

“Shall the vocational region approve a budget for adult education in the amount of \$     for the year \_\_\_\_\_?”

B. A school administrative unit's share of the vocational budget shall be considered part of that unit's local school budget. If necessary, the unit's school budget shall be adjusted to reflect the unit's share of the vocational budget as finally adopted by the region.

C. Initial costs for new vocational education programs may be financed by a local tax outside of any additional appropriations now authorized in section 10211, subsection 3.

D. Anticipated grants from federal sources to be received by the regional cooperative board shall be deducted from the gross budget before making the assessments to the individual municipalities within the region.

4. **Approval of budget.** The budget approval process shall be as follows.

A. The vote of the budget shall be completed at the same time as the regular school budget.

B. The vote of the legislative body shall be to accept or reject each article in the budget warrant. No portion of a warrant may be amended.

C. Following the annual budget meeting of a school administrative unit, the clerk of that unit shall notify, in writing, the member or members of the cooperative board which represent that unit of the results of the vote.

D. Within 5 days after the last unit has acted on the budget, the chairman of the board shall call a meeting of the board to tally the results of the vote.

**E. The cooperative board members shall report in writing and each shall cast his ballot in the affirmative or in the negative in accordance with the majority vote of the school administrative units represented.**

**F. The chairman shall add these votes and the cooperative board shall make a finding of fact and enter in its records the total vote in the affirmative and in the negative.**

**(1) If the total affirmative votes exceed the total negative votes, the cooperative board shall declare that the budget has been approved.**

**(2) If any article within the budget fails to pass, or if a special budget meeting is called after the board has declared an emergency exists, the board may prepare a new budget or special budget and submit the necessary articles to a budget meeting of the vocational region in the manner set forth in section 5758.**

**5. School administrative districts and community school districts. A municipality which is a member of a secondary community school district or a school administrative district shall appropriate the costs of vocational education as part of the secondary school budget.**

**§ 5758. Regional budget meeting**

**1. Method of notice. A regional budget meeting shall be called by a warrant. The warrant shall be signed by a majority of the cooperative board membership. The following procedures shall apply.**

**A. The warrant shall specify the time and place of the meeting.**

**B. The warrant shall be directed to any resident living within the vocational region by name ordering him to notify all voters within the region to assemble at the time and place appointed.**

**C. The warrant shall include the articles the cooperative board considers necessary to place before the voters and the authorization to expend funds of the region for the fiscal year.**

**D. An attested copy of the warrant shall be posted by the person to whom it is directed in some conspicuous public place in each of the municipalities within the vocational region at least 7 days before the meeting.**

**E. The person who gives notice of the meeting shall make his return on the warrant stating the manner of notice in each municipality and the time when it was given.**

**F. A detailed supportive budget document shall be available to the legislative body which has responsibility for final budget approval. The supportive document shall contain a summary of anticipated revenues and estimated expenditures for the fiscal year.**

**2. Procedure. The procedure at a regional budget meeting shall be as follows.**

A. The cooperative board shall appoint a resident of the region to act as the registration clerk.

B. The registration clerk shall make and keep a voting list of all residents in the region eligible to vote. The clerk shall compile the voting list from the voting lists of all the municipalities with the region.

C. Each municipal clerk within the region shall deliver to the registration clerk, 5 business days prior to the budget meeting, a certified corrected copy of the voting list of the member municipality. Additions or deletions may not be made during the 5 business days prior to the meeting. Only the citizens whose names appear on the voting list may vote on the budget presented by the cooperative board.

D. The chairman of the cooperative board, or in his absence his designee, shall open the budget meeting by calling for the election of a moderator, by receiving and counting the votes and by swearing in the nominee receiving a plurality of the votes.

E. The moderator shall preside over the meeting.

F. The vocational budget may be adopted only by a majority vote of those present and voting.

G. The moderator shall appoint from the certified voting lists as many ballot clerks as necessary for the efficient operation of the meeting. The ballot clerks shall be sworn by the moderator.

H. The secretary of the cooperative board, or in his absence his designee, shall record accurately all the votes of the meeting.

I. The cooperative board shall, immediately upon the adoption of a budget, compute the share to be paid by each municipality within the region and shall notify the school officials to include their share in the school administrative unit's annual school budget. A budget shall be adopted on or before August 1st.

J. Anticipated grants from federal sources to be received by the regional cooperative board shall be deducted from the gross budget before making the assessments to the individual municipalities within the region.

K. The school officials shall place on the school warrant for payment the first of each month a sum equal to 1/12 of the school administrative unit's share of the vocational school budget.

#### **§ 5759. Bonding authority**

Bonds and notes for capital outlay purposes may be issued under the following provisions.

1. Regional meeting. If the cooperative board decides to issue bonds or notes of the region for capital outlay purposes:

A. The board shall call a regional meeting using the procedures set forth in sections 1511 and 1551 to 1554;

B. The results of the referendum vote in each municipality shall be reported immediately to the secretary of the cooperative board; and

C. The board shall meet and make an appropriate finding of fact as required in section 1553, subsection 2.

2. Bond resolutions. If the cooperative board determines from the vote that bonds or notes shall be issued, then the following shall apply.

A. The board shall pass a resolution to that effect setting forth the amount of the proposal and the purposes for which the proceeds were authorized.

B. Bonds or notes shall be issued in the manner described in section 1511, except that any reference therein to "School Administrative District" or "board of school directors" shall mean vocational region or cooperative board, respectively.

C. Indebtedness shall not exceed 4% of the total state valuation of all the municipalities comprising the region. That indebtedness shall be outside the debt limitations of the individual municipalities of the region.

#### § 5760. Transfer of school property

The following shall apply to transfer of school property to a vocational region.

1. Authority. A school board of a school administrative unit within a vocational region may transfer or lease unused school property owned by the unit to the vocational region for vocational education purposes.

2. Definitions. For the purposes of this section a special school district shall be considered to be a school administrative unit.

### SUBPART III

### OTHER PROGRAMS

### CHAPTER 315

### ADULT EDUCATION

#### § 5801. Purpose

Since education is a lifelong process, it is declared to be the policy of the State to provide and encourage the growth of educational opportunities for all adults.

#### § 5802. Commissioner's duties

The commissioner shall adopt or amend rules to establish program definitions for adult vocational courses, general adult courses, adult handicapped courses, high school completion courses and basic literacy courses.

#### § 5803. Authority to raise money

A school administrative unit may:

1. Support adult education. Raise and appropriate money for the support of adult education classes and educational activities. These classes and activities shall be under the direction and supervision of the school board; and

2. Tuition. Raise, appropriate and expend money to cover the tuition costs resulting from its residents attending adult education courses in another school administrative unit, if the courses are not offered by the unit of residence.

**§ 5804. Authority to operate nonpublicly supported programs**

A school board may make available facilities for adults for day and evening educational and recreational activities not reimbursed by the State. These courses and activities may be financed by tuition fees, by funds voted by the school administrative unit, by funds from other sources or by a combination of these.

**§ 5805. Participation in adult education**

1. General. A person who is 17 years of age or older and who is not attending public schools may attend local adult education courses in accordance with local program criteria.

A. The commissioner shall grant exceptions under this subsection in admitting students to adult education programs at the local level to a student who has left school under the provisions of section 3301, subsection 2, paragraph B, subparagraphs (1) to (4) on the recommendations of the school board.

B. Prior to requesting an exception, the school board shall seek and consider the recommendations of the positive action committee.

C. Students enrolled in public day school programs may participate in adult education programs or adult vocational programs to supplement the regular day school program on an exception basis in accordance with rules adopted or amended by the commissioner.

2. School age pupils; pupil count; reimbursement; enrollment in neighboring unit. School age pupils may enroll in adult evening school courses as follows.

A. A pupil between the 16th and 20th anniversaries of his birth, who enrolls in a semester adult evening school course, shall be counted as .1 of a pupil.

B. The school administrative unit in which a student resides shall be reimbursed in accordance with chapter 605.

C. If a unit does not offer an appropriate adult evening school course, the student may enroll in a neighboring school administrative unit or private school, subject to the approval of the sending unit's superintendent. The sending unit shall pay tuition to the receiving unit in an amount no greater than .1 of the present per pupil subsidy allocation for secondary students in the sending unit.

**§ 5806. Reimbursement procedures**



1. **Commissioner certification.** Prior to February 1st of each year, the commissioner shall certify to the Legislature and to the Bureau of the Budget his recommendation for the funding levels for the various program categories in adult education.

A. The requested funding levels shall be computed by adding the actual costs for the first half of the year immediately prior to the year of allocation of funds to the total estimated costs that will be incurred for the 2nd half of the same year.

B. The commissioner may amend an estimate if he believes that estimate to be unreasonable.

C. If a school administrative unit fails to submit the necessary information required in this section within the time specified by the commissioner, the commissioner shall estimate that unit's education cost.

2. **State reimbursement.** State reimbursement for expenditures on adult education programs shall be based on the total expenditure less income from federal sources.

A. The reimbursement shall be based on the net expenditures, or the report of expenditures for the first 6 months and the estimate of the expenditure for the last 6 months of the fiscal year, as approved by the commissioner, whichever is lower.

B. State aid will be paid to the school administrative units during the 2nd quarter of the state's fiscal year following the unit's expenditure.

C. If the Legislature fails to appropriate sufficient funds for reimbursement, state aid to school administrative units will be prorated.

#### § 5807. Reimbursement rates

Reimbursement rates shall be as follows.

1. **Administrative costs.** School administrative units shall be reimbursed 70% of the administrative cost for evening and day school classes and educational activities for adults in the year following the expenditure. Administrative cost shall include administrative, supervisors and clerical salaries and the costs of maintaining and operating citizens' advisory committees.

2. **Adult vocational-education courses.** Adult vocational-education courses shall be reimbursed at the rate of 75% of the cost of instructional salaries and 50% of consumable supplies.

3. **General adult courses.** Courses provided for the general public in vocational, leisure and life skill programs shall be reimbursed at the rate of 50% of the cost of instructional salaries.

4. **Adult handicapped courses.** Adult handicapped courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

5. **High school completion courses.** High school completion courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

6. **Basic literacy courses.** Basic literacy courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

7. **Definitions.** The commissioner shall adopt or amend rules to define the terms "adult vocational-education courses," "general adult courses," "adult handicapped courses," "high school completion courses," and "basic literacy courses" for the purposes of this section.

**§ 5808. Teacher education reimbursement**

The commissioner shall add to his budget request a sum not to exceed 5% of the sum recommended for reimbursement to school administrative units for preservice and inservice education activities for teachers in adult education.

**§ 5809. Fees for adult education**

Fees for adult education shall be as follows.

1. **Registration fee.** A school administrative unit, with the approval of the commissioner, shall establish a registration fee schedule and determine the use of those registration fees.

2. **Material fee.** A school administrative unit may charge a student a fee to cover the actual cost of materials used by him in a course he is attending.

**§ 5810. Adult vocational education authority**

Adult vocational education programs may be offered under the following provisions.

1. **Basic authority.** A vocational region or vocational center may offer adult vocational education programs within its geographic area.

2. **Request for program approval.** A school administrative unit in a vocational region or a unit served by a vocational center may request that adult vocational education courses be offered in that school administrative unit through the cooperative board of the vocational region or the governing body of the vocational center.

3. **Board approval.** The cooperative board of the vocational region or the governing body of the vocational center may approve adult vocational education courses in that school administrative unit.

4. **Adequate funding.** The offering of adult vocational education courses shall be dependent upon that school administrative unit appropriating sufficient funds to pay for the courses.

5. **Persons entitled to attend.** Adult vocational education courses offered in a school administrative unit shall be open to any adult who needs retraining or upgrading. If space is limited, priority shall be given to the residents of the unit offering the program.

6. State reimbursement. State reimbursement shall be made to a school administrative unit in accordance with section 4607. If the request to operate a reimbursable adult vocational education course is disapproved by the cooperative board of the vocational region or by the governing body of the vocational center, the school administrative unit may appeal to the commissioner for authority to offer the course. His decision is final and binding.

#### CHAPTER 317

#### SUMMER SCHOOLS

##### § 5901. Summer schools, standards, approval

Standards for summer schools shall be as follows.

1. Standards. The state board shall adopt or amend rules to establish standards consistent with sections 4001, 4002 and 4005 for summer schools offering credit toward graduation from a Maine elementary or secondary school.

2. Approval. The state board shall direct an inspection after which he may approve and grant a certificate to a school that maintains those standards. The expense of inspection shall be paid by the department.

#### CHAPTER 319

#### FIREMEN TRAINING

##### § 6001. Program

The commissioner may conduct programs to provide training for members of municipal fire departments, incorporated volunteer fire departments and industrial and institutional fire brigades.

The commissioner may not require participation in these programs by a member of a municipal fire department, incorporated volunteer fire department or industrial or institutional fire brigades nor use participation in training programs as a condition of eligibility to receive funds for training programs.

##### § 6002. Advisory committee

An advisory committee shall be appointed as follows.

1. Establishment. The commissioner shall appoint a 13 member advisory committee to advise him in the administration of section 6001 as follows:

A. One municipal chief, one call chief and one volunteer chief recommended by the Maine Fire Chiefs' Association, Inc.;

B. One municipal firefighter, one call firefighter and one volunteer firefighter recommended by the Maine Federation of Firefighters, Inc.;

C. One city or town manager and one selectman recommended by the Maine Municipal Association, Inc.;

- D. One member of an industrial or institutional fire brigade recommended by the Maine Safety Council;
  - E. One representative from the field of insurance recommended by the Maine Insurance Association, Inc.;
  - F. Two members recommended by the Maine Council of Firefighters, Inc.; and
  - G. One member of the general public.
- 2. Term of office. Members shall be appointed for a term of 3 years.
  - 3. Chairman. The members shall elect a chairman.
  - 4. Expenses. The members shall be reimbursed for their actual expenses, but may not receive other compensation for service on the committee.
  - 5. Nonvoting representative. The department's consultant for the fire service training program shall be a nonvoting representative of the department at the committee meetings.

**§ 6003. Federal program agents**

The following provisions shall apply to federal fire programs in the State.

- 1. Commissioner; state agent. The commissioner shall be the state agent to be contacted by the United States Fire Administration, about matters dealing with the United States Fire Prevention and Control Act of 1974, Public Law 93-498.
- 2. Department; testing; certification. The department shall be the state testing agency for the National Professional Qualification Board of the Joint Council of Fire Services Organizations. The commissioner may award certificates to personnel of municipal and incorporated volunteer fire departments using competency standards established by the Joint Council of Fire Services Organization.

**CHAPTER 321**

**CORRESPONDENCE SCHOOLS**

**§ 6101. Permit; term**

A school or person representing a privately owned correspondence school located within or outside the state may not solicit or sell in the State a coorespondence course without a permit from the commissioner. A permit shall be valid for the calendar year for which it is issued.

- 1. Application. The commissioner shall furnish forms for applications and renewal applications.
- 2. Fee and bond. A fee of \$5 and a bond in the penal sum of \$1,000 shall accompany each application.

A. The bond shall be used to indemnify a student suffering loss from fraud or misrepresentation used in securing his enrollment.

B. The bond may be continuous.

C. The bond may provide blanket coverage for each of the representatives of a school.

D. The liability of each surety of a bond shall not exceed \$1,000 in the aggregate for each representative for all students for all breaches of conditions of the bond.

E. The surety of a bond may cancel it by providing notice to the commissioner 30 days prior to the date of cancellation. The surety shall not be liable for any breach of condition occurring after the effective date of cancellation.

#### § 6102. Qualifications

A person may be granted a permit under section 6101 only if he has a good moral character.

#### § 6103. Administrative procedures

A permit may be revoked as provided by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter V, if the permittee solicits or enrolls students through fraud or misrepresentation.

#### § 6104. Advisory board

The commissioner may establish a committee of 3 to 5 owners or representatives of privately owned correspondence schools to advise him in the administration and enforcement of this chapter. The advisory committee shall advise the commissioner in adopting or amending rules to administer and enforce this chapter.

#### § 6105. Penalty

Any person convicted of violating this chapter shall be guilty of a Class E crime.

### CHAPTER 323

### TRADE AND TECHNICAL SCHOOLS

#### § 6201. Definition

As used in this chapter, unless the context clearly indicates otherwise, the term "privately owned business, trade, vocational or technical school" means a privately owned school that teaches a business, trade, vocational or technical skill, except:

1. Cosmetology. A school of hairdressing and beauty culture required to be approved by the State Board of Cosmetology;

2. Barbering. A school of barbering required to be approved by the State Board of Barbers;

3. Real estate. A school offering education for the real estate profession and required to be approved by the Board of Real Estate Bankers and Salesmen; and

4. Other. An institution otherwise authorized by law to grant a degree.

**§ 6202. Permits; term**

Permits and term shall be as follows.

1. Inside State. A person, partnership or corporation may not operate or maintain a privately owned business, trade, vocational or technical school within the State without a permit from the commissioner.

2. Outside the State. A school or person representing a privately owned business, trade, vocational or technical school located outside the State, may not solicit or sell in the State a course for training at that school without a permit from the commissioner.

3. Term. A permit shall be valid for the calendar year for which it is issued.

4. Revocation. A permit may be revoked as provided by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter V, if the permittee solicits or enrolls students through fraud or misrepresentation.

**§ 6203. Application for permit**

Application fee for permit shall be as follows.

1. Application; fee. Application for a permit shall be made on forms furnished by the commissioner accompanied by the fee and a surety bond. The fee for the initial permit shall be \$25. The fee for renewal shall be \$10.

2. Bond required. A bond in the penal sum of \$1,000 shall accompany each application.

A. The bond shall be conditioned to indemnify a student suffering loss from fraud or misrepresentation.

B. The bond may be continuous.

C. The surety of a bond may cancel it by providing notice to the commissioner 30 days prior to the date of cancellation. The surety shall not be liable for any breach of condition occurring after the effective date of cancellation.

**§ 6204. Penalty**

A person convicted of violating this chapter shall be guilty of a Class E crime.

**PART V**  
**POST-SECONDARY EDUCATION**  
**CHAPTER 401**  
**GENERAL PROVISIONS**

**§ 7001. Definitions**

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

1. Associate degree. "Associate degree" means a degree earned through a 2-year course of study, or its equivalent.

2. Degree. "Degree" means a document that evidences successful completion of a course of study in a post-secondary institution. It includes education, academic, literary or professional degrees. It also includes associate, baccalaureate, masters or doctoral degrees.

3. Person. "Person" includes a person, association, partnership, organization, institution, corporation or other legal entity.

4. Post-secondary institution. "Post-secondary institution" means a person who provides formal instruction primarily for students who have completed grade 12 or the equivalent. It shall not include adult education programs administered by school administrative units.

**§ 7002. Hemophiliacs**

1. Participation in physical activity. A post-secondary institution may not require a hemophiliac to participate in physical activity hazardous to his physical health, as a condition or requirement for a degree, unless the physical activity is approved by the state board as an essential prerequisite to that degree.

2. Admission. A post-secondary institution may not refuse admission to a hemophiliac solely because of his condition as a hemophiliac, unless that condition would prevent participation in required courses of study of physical activity.

**CHAPTER 403**  
**DEGREE-GRANTING INSTITUTIONS**

**§ 7101. Authority to confer degrees; approval of degree-granting institutions**

1. Authority. A person may not confer degrees unless expressly authorized by an Act of the Legislature on recommendation of the state board.

2. Application. A post-secondary institution seeking authority to grant a degree shall apply to the state board through the office of the commissioner.

3. Standards. The following shall be standards used by the state board.

A. On receipt of an application, the commissioner shall obtain complete information regarding the merit of the institution to grant the degree.

B. The state board shall seek the advice of the Higher Education Council in establishing and using those standards which are commonly accepted in the accreditation of American educational institutions.

4. Report to Legislature. The state board shall prepare a report for the Legislature. The report, with recommendations of the state board, shall be on file in the department for use by the appropriate legislative committee. The report shall include a review of:

- A. The adequacy of the institution's buildings, instructional facilities and provisions for the safety and well-being of students;
- B. The qualifications of the faculty;
- C. The character of the program of studies and of the requirements for degrees;
- D. The practices in the admission of students;
- E. The adequacy of financial resources; and
- F. The governing policies of the institution.

§ 7102. Use of name

1. Use of name. A person may not use the term "junior college," "college" or "university," or use another name, title or description tending to designate that it is a post-secondary institution with the power to grant degrees, unless it has been given the right to grant degrees as provided in this chapter.

2. Exceptions. This section may not apply to:

- A. An institution authorized by the Legislature to grant degrees;
- B. A person which was using a prohibited term, in connection with an educational institution operated prior to January 1, 1957; and
- C. An educational institution coordinating programs with degree-granting post-secondary institutions in this State, if those programs have been approved by the state board.

§ 7103. Temporary approval

1. Power. The state board may grant an applicant a certificate of temporary approval, permitting use of the term "junior college," "college" or "university" in its name until the earlier of:

- A. The expiration of the academic year; or
- B. The authorization to grant degrees.

2. Extensions and renewals. The state board may extend or renew a certificate of temporary approval for a new institution if the institution believes it is not ready to seek degree-granting status. This extension or renewal may not exceed 2 years from the time of the first grant of temporary approval.



3. Rules. The state board shall adopt or amend rules concerning the requirements for licensing and temporary approval, with the advice of the Higher Education Council.

**§ 7104. Penalty**

A person convicted of violating this chapter shall be guilty of a Class D crime.

**§ 7105. Records of educational institutions**

1. Preservation of records. The trustees or officers of a post-secondary institution, on going out of existence or ceasing to function as an educational institution, shall turn over records of attendance and academic achievements by its students to the department. The department shall preserve these records.

2. Duty of the commissioner. The commissioner shall collect all attendance and academic records of post-secondary institutions within the State which are now extinct and deposit the records in a place of safety and accessibility for preservation and future use.

3. Preparation of transcript. When requested the commissioner shall prepare transcripts of grade records from these records of extinct institutions, when they are needed by the former student for:

- A. Further scholastic work at another institution of learning; or
- B. Certification for teaching or for other professional positions.

4. Copy as best evidence. When a transcript is made from the original and certified by the commissioner, it shall be considered and accepted as legal evidence and, for all other purposes, as if it was the original.

5. Fee. The department shall charge a nominal fee for the actual cost of preparing those transcripts.

**§ 7106. Fees for degrees**

An officer of a post-secondary institution may not receive as perquisites a fee for a degree granted by the institute. Fees of this type shall be paid into the institution treasury.

**CHAPTER 405**

**UNIVERSITY OF MAINE**

**§ 7201. Definitions**

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

- 1. Trustees. "Trustees" means the trustees of the University of Maine.
- 2. University. "University" means the University of Maine.

**§ 7202. Public policy on higher education**

**The following shall be the fundamental policies adhered to in the state's public higher education planning:**

**1. Recognition. To recognize higher education as an organized program of instruction, research and service:**

**A. Primarily concerned with the field of organized knowledge, related theory and associated practice;**

**B. Offered by a collegiate institution, not necessarily of 4 years, authorized to award academic degrees; and**

**C. Administered and systematically pursued on a full-time or part-time basis by persons who have completed secondary school or who demonstrate equivalent competence;**

**2. Principles. To support the principles that each higher education institution in the State, public and private:**

**A. Shall have control over its education program and related activities;**

**B. That its faculty shall enjoy the freedom traditionally accorded to the faculty of higher education institutions in teaching, research and expression of opinions; and**

**C. That the faculty shall be consulted in the formulation of academic policies pertaining to it;**

**3. Cohesive system. To develop, maintain and support a structure of public higher education in the State which will assure the most cohesive system possible for planning, action and service in providing higher education opportunities, to which the highest priority for fiscal support shall be assigned;**

**4. Programs. To provide in its public higher education institutions, or through cooperative arrangements with private institutions or institutions outside the State, the programs of study, research or experimentation that its citizens may require;**

**5. Encourage growth. To encourage the growth and development of existing or new private higher education institutions within the State where studies justify their continuation or establishment;**

**6. All citizens eligible. To recognize that all citizens shall be considered eligible for the benefits of appropriate higher education whether they are high school graduates or the equivalent, or those seeking retraining or training for new careers;**

**7. Public funds. To assign continually a high priority in the allocation of public funds to the development of services, programs and institutions designed to provide opportunities for those who do not now share equitably in the advantages of higher education, because of limiting economic, social, educational and cultural factors;**

8. **Financial support.** To support financially the programs of public higher education institutions through appropriations, grants and loans, based on comprehensive plans and budgets, both short-term and long-term;

9. **Public accountability.** To expect appropriate public accountability for this support;

10. **Federal funds.** To encourage all institutions, public and private, to make maximum use of federal funds available for the support of higher education programs and activities, providing matching funds, where necessary, initially and on a continuing basis;

11. **Cooperative undertakings.** To expect and request cooperative undertakings among the higher education institutions, public and private, and between them and the business, industrial and labor interests, to further the development of quality and quantity in educational programs and services and the advancement of the state's economy;

12. **Evaluation and research.** To encourage a continuing program of evaluation and research with respect to higher education opportunities in the State through financial support and the expectation of annual reporting;

13. **Master plan.** To give a high priority to the provisions of the master plan for higher education through legislative action and appropriate publicity; and

14. **Commuter education.** To make the most effective use possible of the financial resources allocated to public higher education by maximum emphasis on commuter facilities.

#### § 7203. State agency

The university shall be an instrumentality and agency of the State for the purpose for which it was established and for which it has been managed and maintained under the Private and Special Laws of 1865, chapter 532, and related supplementary legislation.

#### § 7204. Trust funds

1. **Accounting.** Endowment, trust and other nonexpendable funds for investment held by the trustees, which have been or may be created and established by private donors for the benefit of the university or for any purpose directly related to the activities of the university, shall be preserved in their several separate identities in the books of account of the university and administered according to the terms of the gift.

2. **Management of individual funds.** For the purpose of investment only, and in order to afford to each fund the advantage of a diversification of risk wider than can be obtained by preserving the investment unity of each fund, and in the absence of any conditions or restrictions to the contrary made by the donor, the trustees may combine, pool and merge these funds with other similar funds. The trustees shall account for profits, losses and income to each individual fund in the

proportion which its value bears to the total value of the merged fund as of the date of merger.

3. Valuation of individual funds. If a new fund is merged into an existing combination of funds, the proportionate shares shall be determined by calculating the assets of the existing combination of funds at the then market value, and calculating the future shares of each individual fund in proportion to its value to the whole or the new combination.

§ 7205. Treasurer; compensation

The trustees shall appoint a full-time treasurer of the university. The treasurer shall give bond for the faithful performance of his duties in an amount and with such conditions and sureties as the trustees may determine. The compensation of the treasurer shall be set by the trustees.

§ 7206. Powers and duties of treasurer

1. Receipt and custody of moneys, expenditures, authority to contract. The treasurer's duties shall be as follows.

- A. He shall receive and have custody of all moneys received for the university.
- B. He shall make all expenditures upon vouchers authenticated and approved in a manner designated by the trustees.
- C. He shall have no authority to contract debts and obligations, except:
  - (1) Loans in anticipation of assured revenues when approved by vote of the trustees; and
  - (2) Other loans when directed by vote of the trustees and duly and properly authorized by the Governor.

2. Report of treasurer. The treasurer shall prepare a complete report for the period ending on June 30th of each year and forward a copy of the report to the Governor, the board of trustees and the members of the Legislature.

§ 7207. Construction of statewide network

1. Authority. The University of Maine may acquire real estate, construct, operate, manage and equip radio, transmission and microwave television facilities and interconnect with any other radio or television network or station within or without this State for the purpose of providing a statewide public broadcasting network. The purpose of this network shall be the transmission of public broadcasting to pupils in the schools, colleges, university and adult audiences throughout the State.

2. Contracts. The university may enter into contracts for the construction of facilities and for personal services necessary for the management and operation of facilities, and any other contracts necessary to carry out the purposes of this chapter.

3. Gifts. The Governor may accept a gift of money or real or personal property, and grants-in-aid from the Federal Government to assist in carrying out the purposes of this chapter.

## CHAPTER 407

### VOCATIONAL-TECHNICAL INSTITUTES

#### § 7301. Purpose and intent

1. Purpose. The purpose of this chapter shall be to:

A. Create vocational-technical institutes in Maine which will be able to respond to the needs of the people of the State for vocational, technical and occupational training; and

B. Provide for responsive administration of the vocational-technical institutes.

2. Intent. It is the intent of the Legislature that the vocational-technical institutes shall:

A. Provide vocational, technical and occupational education for those who demonstrate aptitude and need and who require training designed for service in a trade, industry or commerce;

B. Provide each graduate with job skills;

C. Provide the general education necessary to complement the requirements of specific vocational and technical skills;

D. Provide supplementary educational programs to upgrade those persons already employed or retrain persons for new employment opportunities; and

E. Provide special programs for disadvantaged and handicapped persons to permit them to take maximum advantage of their aptitudes and interests.

#### § 7302. Definitions

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

1. Institute. "Institute" means a vocational-technical institute as established in section 7303.

#### § 7303. Establishment of institutes

The following vocational-technical institutes are established:

1. Central Maine Vocational-Technical Institute in the City of Auburn;

2. Eastern Maine Vocational-Technical Institute in the City of Bangor;

3. Kennebec Valley Vocational-Technical Institute in the City of Waterville;

4. Northern Maine Vocational-Technical Institute in the City of Presque Isle;
5. Southern Maine Vocational-Technical Institute in the City of South Portland;
6. Washington County Vocational-Technical Institute in the City of Calais.

**§ 7304. General duties and authority**

1. General duties. The state board shall maintain and operate these institutes and have policy-making and planning authority for them.

2. Authority. The state board may, in operating these institutes:

A. Offer courses of study;

B. Grant diplomas and certificates on completion of a course of study;

C. Confer associate degrees based upon 2 years of instruction with equipment and facilities which will safeguard the integrity of the degrees conferred;

D. Charge tuition and other reasonable fees;

E. Establish qualifications for admission; and

F. Accept and expend all funds for post-secondary vocational education, received by the department from:

(1) The General Fund;

(2) Gifts and donations either from public or private sources which are offered unconditionally; or

(3) Fees.

**§ 7305. Directors of institutes**

1. Appointment of directors. The commissioner, with the approval of the state board, shall appoint the directors of the institutes.

2. Salary range. The commissioner, with the approval of the state board, shall establish the salary range for directors and assistant directors.

3. Job title and salary range for new positions. The state board, consistent with Title 26, chapter 12, shall make recommendations to the Department of Personnel and the Bureau of the Budget concerning the appropriate job title and salary range for each newly-created position in the unclassified service, at an institute. The recommendations shall be based on the level of job responsibilities of the position created.

4. Change of job title and salary range. The state board, consistent with Title 26, chapter 12, shall make recommendations to the Department of Personnel and the Bureau of the Budget to change the job title or salary range of any existing position in the unclassified service at an institute if an identifiable change in job responsibilities occurs.

**§ 7306. Funding levels; capital construction plan; budget**

1. **Funding levels.** Prior to September 1st of even numbered years, the state board shall certify and present to the Governor the funding levels which it recommends for the operation of the institutes. It shall report those recommendations to the Legislature prior to November 15th of even-numbered years.

2. **Long-range capital construction plan.** With the requested funding levels, the state board shall submit a long-range capital construction plan in priority order. This plan shall be submitted to the Legislature with the required report.

3. **Costs of maintenance, repairs and capital construction.** Notwithstanding any other provision of law, the directors shall include the costs of maintenance, repairs and capital construction at the institutes in the funding level requests presented to the state board. In the preparation, development and submission of funding requests for maintenance, repairs and capital construction, the state board shall consult with the Bureau of Public Improvements. Funds appropriated for maintenance, repairs and capital construction at the institutes shall be allocated and expended only for authorized purposes.

**§ 7307. Contingent account**

There is established under Title 5, section 1507, a contingent account for the institutes and the procedures for allocation of contingent account funds.

**§ 7308. Operation of courses; administration and tuition charges**

1. **Courses offered.** Institute vocational courses in grades 13 and 14 levels may be operated in vocational centers or vocational regions if approved by the state board.

2. **Administration.** If these courses are not part of an adult education program, then they shall be administered as satellite programs of an institute designated by the state board.

3. **Tuition.** Tuition for these courses shall be charged directly to the students enrolled, at rates approved by the state board.

**§ 7309. State scholarships at the vocational-technical institutes**

1. **Scholarships.** The state board shall develop and administer a program of scholarships for students, enrolled at an institute. A student selected to receive a scholarship shall fulfill the following qualifications:

A. Show evidence of the qualifications necessary to successfully complete the course of study and to become a competent craftsman in a trade or industrial pursuit;

B. Show demonstrated ability and willingness to support the expenses of his training; and

- C. Show demonstrated need of partial financial assistance to pay the cost of attendance at the institute.
2. Limitation. A scholarship may not exceed \$250 in one year.
3. Allocation of scholarships. Amounts available for these scholarships shall be distributed annually by the state board to the institutes as follows:
  - A. \$1,500 or the equivalent of 6 full scholarships to each institute; and
  - B. Allocation of the balance of the scholarship fund to each institute in the same proportion as the institute's enrollment is of all of the institutes for the fall semester of the current year.
4. Awards. Awards shall be based on evidence of individual need and worth.

**§ 7310. Journeymen's examinations**

A person who has satisfactorily completed a course of instruction at an institute in the practice of electrical installations, oil burner installation or plumbing may take the appropriate journeyman's examination conducted by the following:

1. Electricians. Electricians' Examining Board;
2. Oil and solid fuel burnerman. Oil and Solid Fuel Burner Technicians' Licensing Board; or
3. Plumber. Plumbers' Examining Board.

**§ 7311. Policemen at institutes**

1. Appointment. Subject to the Personnel Law, a director may appoint persons to act as policemen. These policemen shall, within the limits of the property owned by or under the control of the institutes, possess all of the powers of constables.

2. Guidelines. The state board may establish guidelines by which each director may make rules for the control, movement and parking of vehicles within the limits of the property owned by or under the control of the institute.

3. Rules. A director's rule shall be adopted or amended in accordance with section 3. It shall have the same force and effect as a municipal ordinance. District Courts may impose fines, not to exceed \$10, for each violation of these rules.

4. Evidence and waiver. The state board may adopt the provisions of Title 30, section 2151, subsection 3, paragraph A, relating to prima facie evidence and the establishment of a waiver of court action by payment of specified fees.



**CHAPTER 409**  
**NEW ENGLAND HIGHER EDUCATION COMPACT**  
**SUBCHAPTER 1**  
**COMPACT**

**§ 7401. Purposes — Article I**

The purposes of the New England Higher Education Compact shall be to provide greater educational opportunities and services through the establishment and maintenance of a coordinated educational program for the persons residing in the several states of New England parties to this compact, with the aim of furthering higher education in the fields of medicine, dentistry, veterinary medicine, public health and in professional, technical, scientific, literary and other fields.

**§ 7402. Board of Higher Education — Article II**

1. **Creation.** There is created and established a New England Board of Higher Education, in this chapter known as the “board,” which shall be an agency of each state party to the compact.

2. **Powers.** The board shall be a body corporate and politic, having the powers, duties and jurisdiction enumerated and such other and additional powers as shall be conferred upon it by the concurrent act or acts of the compacting states.

3. **Composition.** The board shall consist of 8 resident members from each compacting state, at least 2 of whom shall be members of the Legislature, chosen in the manner and for the terms provided by law of the several states parties to this compact.

**§ 7403. Entry into force — Article III**

This compact shall become operative immediately as to those states executing it whenever any 2 or more of the States of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island and Connecticut have executed it in the form which is in accordance with the laws of the respective compacting states.

**§ 7404. Officers; meetings; organization — Article IV**

1. **Officers.** The board shall annually elect from its members a chairman and vice-chairman and shall appoint and at its pleasure remove or discharge said officers.

2. **Employees.** It may appoint and employ an executive secretary and may employ such stenographic, clerical, technical or legal personnel as shall be necessary and at its pleasure remove or discharge such personnel.

3. **Rules.** It shall adopt a seal and suitable bylaws and shall promulgate any and all rules which may be necessary for the conduct of its business.

4. **Office.** It may maintain an office or offices within the territory of the compacting states.

5. **Meetings.** It may meet at any time or place. Meetings shall be held at least once each year. A majority of the members shall constitute a quorum for the transaction of business, but no action of the board imposing any obligation on any compacting state shall be binding unless a majority of the members from the compacting state shall have voted in favor thereof. Where meetings are planned to discuss matters relevant to problems of education affecting only certain of the compacting states, the board may vote to authorize special meetings of the board members of such states.

6. **Accounts.** The board shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor and the legislature of each compacting state, setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the compacting states which may be necessary to carry out the intent and purpose of this compact.

7. **Credit.** The board shall not pledge the credit of any compacting state without the consent of the legislature thereof given pursuant to the constitutional processes of said state. The board may meet any of its obligations in whole or in part with funds available to it under Article VII of this compact; provided that board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article VII, the board shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the compacting states adequate to meet the same.

8. **Audit.** Each compacting state reserves the right to provide hereafter by law for the examination and audit of the accounts of the board.

9. **Disbursements.** The board shall appoint a treasurer and assistant treasurer who may be empowered to perform any and all duties of the treasurer. Fiscal disbursements of the board should be valid only when authorized by any 2 persons from among those authorized by the board to execute this authority, and when substantiated by vouchers signed and countersigned by any 2 members from among those authorized by the board to execute this authority.

10. **Records.** The executive secretary shall be custodian of the records of the board with authority to attest to and certify such records or copies thereof.

**§ 7405. Powers and duties — Article V**

The board may:

1. **Data reports.** Collect, correlate and evaluate data in the fields of its interest under this compact; publish reports, bulletins and other documents making available the results of its research; and, in its discretion, charge fees for those reports, bulletins and documents;

2. Contractual agreements or arrangements. Enter into such contractual agreements or arrangements with any of the compacting states or agencies thereof and with educational institutions and agencies as may be required in the judgment of the board to provide adequate services and facilities in educational fields covered by this compact. It shall be the policy of the board in the negotiation of its agreements to serve increased numbers of students from the compacting states through arrangements with then existing institutions, whenever in the judgment of the board adequate service can be so secured in the New England region. Each of the compacting states shall contribute funds to carry out the contracts of the board on the basis of the number of students from such state for whom the board may contract.

Contributions shall be at the rate determined by the board in each educational field. Except in those instances where the board by specific action allocates funds available to it under Article VII, the board's authority to enter into such contracts shall be only upon appropriation of funds by the compacting states. Any contract entered into shall be in accordance with rules and regulations promulgated by the board and in accordance with the laws of the compacting states.

#### § 7406. Appropriations — Article VI

Each state agrees that, when authorized by the legislature pursuant to the constitutional processes, it will from time to time make available to the board such funds as may be required for the expenses of the board as authorized under the terms of this compact. The contribution of each state for this purpose shall be in the proportion that its population bears to the total combined population of the states who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States, unless the board shall adopt another basis in making its recommendation for appropriation to the compacting states.

#### § 7407. Gifts — Article VII

The board for the purposes of this compact may receive grants, devises, gifts and bequests which the board may agree to accept and administer. The board shall administer property held in accordance with special trusts, grants and bequests, and shall also administer grants and devises of land and gifts or bequests of personal property made to the board for special uses, and shall execute said trusts, investing the proceeds thereof in notes or bonds secured by sufficient mortgages or other securities.

#### § 7408. Severability — Article VIII

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any compacting state or of the United States the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact is held to be contrary to the constitution of any compacting state the compact shall remain in full force and effect as to all other compacting states.

**§ 7409. Withdrawal — Article IX**

This compact shall continue in force and remain binding upon a compacting state until the legislature or the governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action shall not be effective until 2 years after notice thereof has been sent by the governor of the state desiring to withdraw to the governors of all other states then parties to the compact. Such withdrawal shall not relieve the withdrawing state from its obligations accruing prior to the effective date of withdrawal. Any state so withdrawing, unless reinstated, shall cease to have any claim to or ownership of any of the property held by or vested in the board or to any of the funds of the board held under the terms of the compact. Thereafter, the withdrawing state may be reinstated by application after appropriate legislation is enacted by such state, upon approval by a majority vote of the board.

**§ 7410. Defaults; suspension — Article X**

If any compacting state shall at any time default in the performance of any of its obligations assumed or imposed in accordance with this compact, all rights and privileges and benefits conferred by this compact or agreement hereunder shall be suspended from the effective date of such default as fixed by the board. Unless such default shall be remedied within a period of 2 years following the effective date of such default, this compact may be terminated with respect to such defaulting state by affirmative vote of 3/4 of the other member states. Any such defaulting state may be reinstated by:

1. Performance. Performing all acts and obligations upon which it has heretofore defaulted; and
2. Approval. Application to and approved by a majority vote of the board.

**SUBCHAPTER II****PROVISIONS RELATING TO COMPACT****§ 7451. Ratification**

The Governor, on behalf of this State, may enter into a compact, substantially in the form provided in this chapter, with any one or more of the States of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont, that compact to be effective upon the filing of a copy thereof in the office of the Secretary of State.

**§ 7452. Purposes**

The several New England states cooperatively deem it feasible to provide needed, acceptable, efficient, educational facilities to meet the needs of New England in the fields of medicine, dentistry, veterinary medicine and other fields of technical, professional and graduate training.

**§ 7453. Board**

1. **Membership.** Of the 8 members who shall represent this State;
  - A. One shall be the current Chancellor of the University of Maine, ex officio;
  - B. One shall be the commissioner, ex officio;
  - C. Four shall be named by the Governor for 2-year terms;
  - D. One shall be a member of the Senate appointed by the President of the Senate; and
  - E. One shall be a member of the House of Representatives appointed by the Speaker of the House.
2. **Expenses.** All members shall receive their actual expenses incurred in the performance of their official duties.

§ 7454. Duties of board

The board on the part of the State shall obtain accurate accounts of all the board's receipts and disbursements and shall report to the Governor and the Commissioner of Finance and Administration annually on or before the 15th day of September, setting forth in such detail as the commissioner may require the transactions of the board for the fiscal year ending on the preceding June 30th. They shall include in such report recommendations for any legislation as may be necessary or desirable to carry out the intent and purposes of the New England Higher Education Compact among the states joining.

§ 7455. Effective date

When the Governor shall have executed this compact on behalf of this State, and shall have caused a verified copy thereof to be filed with the Secretary of State, and when the compact shall have been ratified by one or more of the states named in section 7451 then this compact shall become operative and effective as between this State and such other state or states. The Governor shall take such action as may be necessary to complete the exchange and filing of official documents as between this State and any other state ratifying the compact, and to take such steps as may be necessary to secure the consent of the Congress of the United States to the compact.

## CHAPTER 411

### TUITION EQUALIZATION FUND

§ 7501. Definition

As used in this chapter, unless the context clearly indicates otherwise, the term "eligible private institution of higher education" means an institution meeting the requirements as set forth in the Higher Education Act of 1965, section 1201, as amended, (29 United States Code 1141) and the Higher Education Act of 1965, section 491, as amended, (20 United States Code 1088) and the regulations and guidelines promulgated by the United States Commissioner of Education pursuant

to those provisions of federal law and published in the Federal Register. Also, the institution must be authorized to grant degrees in accordance with chapter 403.

**§ 7502. Tuition equalization fund**

1. **Establishment.** The State Tuition Equalization Fund shall be established in the department. The moneys in this fund shall be distributed, under rules adopted or amended by the commissioner, to Maine high school graduates who are attending eligible private institutions of higher education in this State, as full-time undergraduates.

2. **Eligibility.** To be eligible for a grant a student shall demonstrate substantial need and have a family income, measured by taxable income for federal income tax purposes, of less than \$17,000. Individual grants shall not exceed \$1,000 per school year.

**§ 7503. Selection**

The selection of grant recipients shall be made with the cooperation of the Higher Education Council.

**CHAPTER 413  
STUDENT LOANS**

**§ 7601. Purpose**

The purpose of this chapter is to enable the state board to establish a student loan insurance program, meeting certain federal requirements, in order to secure loans to Maine students attending institutions of higher education, including vocational training institutions, in accordance with the direction in the Constitution of Maine, Article VIII, Part First, section 2.

**§ 7602. Loan insurance program established**

The state board may establish a student loan insurance program to insure payment of loans to Maine students. This program shall meet the requirements of federal acts and statutes relating to federal, state and private programs of low-interest insured loans to students in institutions of higher education, as provided in the United States Higher Education Act of 1965. To this end, the faith and credit of the State is pledged consistent with the terms and limitations of the Constitution of Maine, Article VIII, Part First, section 2.

**§ 7603. Student Loan Insurance Fund**

1. **Establishment.** There is established a Student Loan Insurance Fund, which shall be used by the state board as a nonlapsing, revolving fund for carrying out this chapter.

2. **Sum; charges and credits.** The fund shall initially be in the sum of \$5,000. To this sum shall be:

A. Charged all expenses of the state board for their operations under this chapter, including interest and principal payments required by loan defaults; and

B. Credited all amounts received by the state board under this chapter.

3. Excess moneys. Moneys in the fund, not needed currently to meet the obligations of the state board as an insurer, shall be deposited with the Treasurer of State to the credit of the fund, or may be invested as provided by statute.

#### § 7604. Additions to Student Loan Insurance Fund

1. Request of board. The state board may, in writing, request the Governor to provide additional funds to add to the Student Loan Insurance Fund to meet its obligations.

2. Transfer of funds. The Governor shall transfer to the fund sufficient moneys for the requested purpose from the State Contingent Account or from the proceeds of bonds to be issued as provided in this section.

3. Bonds. Bonds shall be issued as follows.

A. The Governor shall order the Treasurer of State to issue bonds in the amount requested, but not exceeding in the aggregate outstanding at any one time the amount set forth in the Constitution of Maine, Article VIII, Part First, section 2.

B. Bonds shall mature serially or be made to run for periods as the Governor may determine, but not for a term of more than 20 years.

C. The Governor shall determine the rates of interest and the terms and conditions of the bonds.

D. The bonds shall be deemed a pledge of the faith and credit of the State.

#### § 7605. Powers and duties

Under this chapter, the state board may:

1. Rules. Adopt, amend or enforce rules to carry out the purposes of this chapter;

2. Agents. Choose a suitable agent to administer the affairs and activities required by this chapter or by applicable federal provisions; and

3. Agreements. Enter into agreements with the United States Secretary of Education relating to federal, state and private programs of low-interest insured loans to students in institutions of higher education, within the United States Higher Education Act of 1965.

#### § 7606. Loans to minors

Notwithstanding any other law, if the borrower on a loan insured under this program is a minor, an otherwise valid note or written agreement executed by him for the purpose of the loan shall create a binding obligation.

## CHAPTER 415

## STUDENT INCENTIVE SCHOLARSHIP PROGRAM

## § 7701. Definitions

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

1. Academic year and in attendance. “Academic year and in attendance” means the same as the definitions of these terms contained in section 1201 of the Higher Education Act of 1965, as amended, (29 United States Code 1141) and section 491 of the Higher Education Act of 1965, as amended, (20 United States Code 1088) and the regulations, guidelines and procedures promulgated by the secretary and published in the Federal Register pursuant to these sections of federal law.

2. Actual cost-of-attendance. “Actual cost-of-attendance” means, the same as the definition contained in the Federal Basic Educational Opportunity Grant Program, section 411 of the Higher Education Act of 1965, as amended, (20 United States Code, 1070a) and the regulations, guidelines and procedures promulgated by the secretary and published in the Federal Register. If the secretary does not publish regulations, guidelines and procedures, the commissioner shall adopt or amend rules to be used in determining “actual cost-of-attendance” for the purposes of the Maine Student Incentive Scholarship Program. These rules shall provide that students shall be eligible for the receipt of grants for the duration of their undergraduate program at a level no lower than previously granted.

3. Expected family contribution. The “expected family contribution” means the amount which the family of a student may be reasonably expected to contribute toward his post-secondary education for the academic year for which the student is seeking a state student incentive scholarship. The method of determining “expected family contribution” shall be uniformly applied to all students. It shall be established by rules of the department. In establishing the method, the department shall consider using the system as promulgated by the Secretary for the Basic Educational Opportunity Grant Program pursuant to section 411 of the Higher Education Act of 1965, as amended, (20 United States Code 1070a) or methods commonly used by colleges and universities, such as those of the College Scholarship Service or American College Testing Service.

4. Institution of higher education. “Institution of higher education” means an institution of higher education located within this State, or within another state with which this State has a reciprocal agreement. The institutions shall meet the requirements of and conform to the definitions contained in section 1201 of the Higher Education Act of 1965, as amended, (29 United States Code 1141) and section 491 of the Higher Education Act of 1965, as amended, (20 United States Code 1088) and the regulations, guidelines and procedures promulgated by the secretary and published in the Federal Register pursuant to these sections of law.

## § 7702. Establishment



The commissioner shall administer a program of state student incentive scholarships.

**§ 7703. Eligibility**

The scholarships shall be given only to residents of the State who:

1. Graduated. Have graduated from an approved secondary school or matriculated at a post-secondary school prior to high school graduation, or have successfully completed a general education development examination or its equivalent;

2. Accepted as undergraduate. Have been accepted for enrollment as undergraduates in, or are in good standing as undergraduates at institutions of higher education according to the prescribed standards, regulations and practices of those institutions and have met the required academic standards for admission;

3. Applied for grants. Have applied for these grants according to schedules and procedures and on forms as the department may require;

4. Agreement on costs. Have agreed that costs not provided for by federal grants shall be covered by the student and the student's family in the form of self-help, such as loans and extra work, or by merit scholarships, veteran's benefits or other resources which the student has obtained by merit, previous service or similar personal efforts prior to the awarding of any scholarship under this chapter; and

5. Shown need. Have been determined by the department to be of substantial financial need according to the criteria set forth in section 7704.

The commissioner may adopt or amend rules to establish the criteria to demonstrate residency.

**§ 7704. Determination of need**

1. Method. The commissioner shall establish the need of a student for a state student incentive scholarship for an academic year for which the student applies, by determining the difference between:

A. The sum of the student's expected family contribution and the student's basic grant, if any, received under the Federal Basic Educational Opportunity Grant Program, (20 United States Code 1070a) for the academic year for which the student is applying for a state student incentive scholarship. The commissioner may also consider the contributions of the student and the student's family in the form of self-help or in the form of merit scholarships, veteran's benefits or other resources which the student has obtained by merit, previous service or similar personal efforts or could reasonably be required to obtain, unless there is ample proof to the contrary that this latter requirement is impossible to fulfill; and

B. The actual cost-of-attendance at the institution of higher education at which the student has been accepted for enrollment, or at which the student is in good standing.

2. Determination. The student's need shall serve as the basis on which the commissioner determines the state student incentive scholarship to that student for an academic year.

**§ 7705. Determination of grants**

Grants to eligible students shall be determined as follows, subject to the limitations set forth in section 7706.

1. Full-time. In the case of an eligible student who is in attendance on a full-time basis, the amount of the scholarship awarded the student shall not exceed 50% of the need of that student, or \$1,500, whichever is less, for a single academic year.

2. Half-time. In the case of an eligible student who is in attendance less than full-time, but at least half-time, the amount of the scholarship awarded to that student shall be reduced in proportion to which that student is not attending on a full-time basis.

3. Minimum. A scholarship of less than \$200 per year may not be awarded to a student.

4. Less than half-time. A student who is in attendance on a less-than-half-time basis, as defined by the commissioner, may not be awarded a scholarship.

5. Withdrawal. If a recipient of a scholarship withdraws from an institution and if the student is entitled to a refund of tuition, fees or other charges, the institution shall pay directly to the State from that refund a sum which represents the portion of the scholarship paid to the student for the portion of the academic year that the student did not complete.

**§ 7706. Schedule of reductions in grants**

Prior to March 1st of each year, the commissioner shall evaluate the availability of state and federal funds for the scholarship program in relationship to the number of students eligible for grant assistance. If funds will be insufficient to pay scholarships under the conditions set forth in section 7705, the commissioner shall publish, no later than March 1st, a schedule of reductions in scholarships for the succeeding academic year. The schedule of reductions shall be effective for not longer than one academic year, except if renewed by republication by the commissioner prior to the following March 1st.

**§ 7707. Initial and continuation grants**

1. Initial grants. An initial scholarship grant shall be for a period not to exceed one academic year. A student who has been awarded an initial grant may apply for a continuation grant for each year during the period required for completion of the undergraduate course of study being pursued by that student.

2. Undergraduate course of study. A student may receive a scholarship during the period required for the completion of the undergraduate course of study being pursued by that student at the institution at which the student is in attendance. The period may not exceed 8 semesters or its equivalent for the full-time student and 16 semesters or 120 credit hours, whichever is completed first, for the part-time student. The period may be extended for not more than one additional academic year if:

A. The student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over 5 academic years; or

B. The student will be unable to complete a course of study within 4 academic years because of a requirement of the institution that the student enroll in a noncredit remedial course of study. The "noncredit remedial course of study" means a course of study for which no credit is given toward an academic degree and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to that degree.

#### § 7708. Program administration

1. Responsibility of the department. The commissioner shall administer the scholarship program, including establishing and maintaining fund accounting and control procedures as required by state law, or as necessary for the State to be eligible to receive federal assistance under the Federal State Incentive Scholarship Program, Title IV, Part A, Subpart 3 of the Higher Education Act of 1965, as amended, (20 United States Code 1070C-1, 1070C-2 and 1070C-3).

2. Guidelines, rules and regulations. The following provisions shall apply to the program.

A. The commissioner shall develop rules, procedures, schedules and forms necessary to carry out the purposes of this program, including the adoption of reciprocal agreements with other states.

B. To the maximum extent possible consistent with the need for state control of this program, the commissioner shall use or follow the guidelines, rules, regulations, procedures, forms and schedules set forth by the Secretary for the Administration of the Federal Basic Educational Opportunity Grant Program, Title IV, Part A, Subpart 1 of the United States Higher Education Act of 1965, as amended, (20 United States Code 1070a).

### CHAPTER 417

### POSTGRADUATE EDUCATION

### IN THE FIELD OF MEDICINE

#### § 7801. Legislative intent

1. Admission of Maine residents to educational institutions. It is the intent of the Legislature to assure, to the greatest extent possible, the admission of

qualified Maine residents to educational institutions providing programs of instruction leading to doctoral degrees in allopathic and osteopathic medicine, dentistry, optometry and veterinary medicine.

2. **Responsibility for program.** It is further the intent of the Legislature, consistent with the purposes of this chapter, that the commissioner shall administer the program and develop a plan which assures, to the extent practicable, that Maine contract students, or a similar number of out-of-state medical school graduates, return to practice their profession within the State, particularly in primary care in underserved areas.

3. **Advisory committee.** It is further the intent of the Legislature, consistent with the purposes of this chapter, to establish an Advisory Committee on Medical Education to assist the commissioner in planning and administration of the professional health program and particularly in the development of clinical education sites and continuing education, which are funded primarily by sources other than patient charges.

#### § 7802. Definitions

For the purposes of this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Clinical education site.** “Clinical education site” includes both clinical clerkship sites and preceptorship sites.

A. **Clinical clerkship site.** “Clinical clerkship site” means an on-location teaching environment in conjunction with residency training.

B. **Preceptorship site.** “Preceptorship site” means a training site ranging from a one-to-one training site between a physician and medical student to a training site in a health clinic or hospital without a residency program.

2. **Final determination of residency.** “Final determination of residency” means the decision on residency made subject to rules of the department. Criteria for these rules shall include length of residence, secondary school attended, legal residence of parent, voting registration and place where taxes are paid.

3. **Primary care.** “Primary care” means the practice of general or family medicine, internal medicine, pediatrics, obstetrics and gynecology.

4. **State capitation payment.** “State capitation payment” means the amount agreed on between the State and the institution for the purchase of the student space.

5. **State contract student.** A “state contract student” means a Maine resident who is enrolled in an educational program at an educational institution for which program the State:

A. Has entered into a contractual arrangement with the institution; and

B. Expends funds under this arrangement in return for a guarantee on the part

of the institution that student positions will be made available to Maine residents.

6. Underserved areas. "Underserved areas" means those geographic locations which meet the Health Maintenance Organization Act definition of medically underserved areas as described in the Federal Register, Vol. 42, number 201, October 15, 1976, or its successor.

§ 7803. Agreement of state contract student with the State

1. Agreement. Notwithstanding any other provision of law, a state contract student commencing his professional education on or after September 1, 1977 shall, as a condition precedent to the commencement of that education, enter into an agreement with the State under which the student shall agree:

A. To pay tuition to the institution;

B. That, on the conclusion of his professional education, including internship, residency and obligated public health service and Armed Forces' service, he shall pay the State an amount of money equal to the state capitation payment for the student position which he occupied. The commissioner may adopt or amend rules to define the conclusion of professional education; and

C. The payment shall be payable at 6% simple annual interest in not more than 10 equal annual installments.

2. Forgiveness of indebtedness. The agreement shall provide that 1/4 of the indebtedness shall be forgiven for each year in which the state contract student practices his profession within the State in primary care or other specialized areas as determined by the commissioner, with the advice of the Advisory Committee on Medical Education. For other state contract students returning to practice their profession in Maine, 1/4 of their indebtedness shall be forgiven for each of the first 2 years of practice.

§ 7804. Tuition grants

A state contract student attending a contract institution who demonstrates financial need may be eligible for a tuition grant from funds made available by the department to the institution for that purpose. The amount of this grant shall be based on the financial need of the student and may not exceed the amount of the state tuition charge to that student.

§ 7805. Positions

1. Negotiations. The commissioner shall, directly or through the New England Board of Higher Education, negotiate with educational institutions to secure positions for state contract students in the fields of allopathic and osteopathic medicine, dentistry, optometry and veterinary medicine.

2. Purchase of positions at medical schools. The commissioner may expend appropriated money for the purchase of positions at accredited medical schools, for not more than:

A. A total of 40 positions each year, divided among the University of Vermont College of Medicine, Tufts University School of Medicine, Dartmouth Medical School or another accredited medical school, to a total of 160;

B. A total of 10 positions each year divided among Tufts School of Dental Medicine or another accredited dental school, to a total of 25;

C. A total of 4 positions each year, divided among the University of Pennsylvania School of Veterinary Medicine, the New York State College of Veterinary Medicine at Cornell University, Tufts University School of Veterinary Medicine or another accredited school of veterinary medicine, to a total of 16;

D. A total of 2 positions each year at the New England College of Optometry, to a total of 8; and

E. A total of 10 positions each year at the New England College of Osteopathic Medicine, to a total of 40.

3. Number of spaces. The department shall not exceed the total number of spaces, but may allocate the number of spaces at the various institutions based on the spaces available for the academic school years, the cost of securing the student space, the number of applications and the primary care residency program needs.

§ 7806. In-state clinical education programs; development of a plan

1. Return to practice in Maine. The commissioner shall develop a plan which assures, to the extent practicable, that contract students, or a similar number of out-of-state medical school graduates, return to practice their profession within the State, particularly in primary care in underserved areas of the State. This plan shall be completed and presented to the Legislature and the Governor before February 1st each year.

2. Plan. This plan shall include:

A. The development of a coordinated mechanism for the administration of the compact;

B. The projected number of student spaces needed and projected costs in all professional health fields;

C. Recommendations for the future need of this program;

D. The development of sites for student clinical training;

E. The percentage of the total amount expended for the purchase of the space at the contract institutes that will return with the student undertaking clinical education in the State;

F. The development of incentives to practice in primary care and underserved areas; and

G. Recommendations for utilizing contract funds to provide assistance to Maine residency programs.

3. Coordination. To avoid duplication in the undertaking of this plan, the commissioner shall coordinate all activities with other professional health agencies and organizations.

**§ 7807. Advisory Committee on Medical Education**

1. Committee. The Advisory Committee on Medical Education shall assist the commissioner in developing the plan.

2. Members. The advisory committee shall consist of 16 members, who shall be appointed by the commissioner and subject to approval by the Joint Standing Committee on Education. Membership of the advisory committee shall include representatives from those health care agencies and associations, public and private, whose activities are relevant to the objectives of the plan, as determined by the commissioner. Members shall be appointed for a 2-year term.

3. Vacancies. In the case of vacancies or resignations, appointments shall be made as for a new member to fill the vacancies until the expiration of the terms.

**§ 7808. Nonlapsing fund; Revolving Grant-Loan Scholarship Fund**

1. Nonlapsing fund. Unexpended money appropriated for use under section 7805 shall not lapse, but shall be carried forward to be expended for the purposes of that section, for tuition grants or for the support of primary care residency programs in Maine, particularly for the development of practice sites in underserved areas.

2. Revolving Grant-Loan Scholarship Fund. Moneys returned to the State under subsection 1, may not be deposited in the General Fund, but shall be deposited in the Grant-Loan Scholarship Revolving Account. This account shall be expended for the purposes of sections 7805 and 7806, for tuition grants or for the support of primary care residency programs in Maine, particularly for the development of practice sites in underserved areas.

**CHAPTER 419**

**LOANS FOR CANDIDATES FOR**

**PRACTICE OF OSTEOPATHIC MEDICINE**

**§ 7901. Purpose**

1. Purpose. The purpose of this chapter is to provide for persons who desire to practice osteopathic medicine in this State.

2. Findings. The provision of financial assistance in securing this type of higher education is an important public purpose. Many qualified youth are deterred by financial considerations from securing this type of higher education resulting in irreparable loss to the State in maintaining the health of its residents.

**§ 7902. State Osteopathic Loan Fund**

1. **Creation.** The State Osteopathic Loan Fund shall be used by the commissioner as a nonlapsing, revolving fund for carrying out this chapter. The fund shall initially be in the sum of \$40,000.

2. **Continuity.** The program shall be a continuing one. The commissioner shall include in his biennial budget an appropriate request adequate to fund the loan program.

3. **Excess.** Moneys in the fund, not needed currently to meet the obligations under this chapter shall be deposited with the Treasurer of State to the credit of the fund, or may be invested in any manner provided for by statute.

**§ 7903. Eligibility for loans**

An applicant shall be eligible for a loan under this chapter when the commissioner, after consultation with the executive committee of the Maine Osteopathic Association, finds:

1. **Residency.** That he has been a resident of this State for a minimum of 3 years at any time prior to application;

2. **Qualifications.** That he is attending or will immediately attend an osteopathic college or university accredited by the American Osteopathic Association;

3. **Financial resources.** That his financial resources are such that, in the absence of a loan, he will be deterred by financial considerations from beginning or completing his education; and

4. **Return to Maine.** That he shows a genuine interest in returning to this State to practice osteopathic medicine.

**§ 7904. Repayment**

1. **Agreement.** A student, as a condition of receiving a loan, shall enter into an agreement with the State that he, after the completion of his internship, residency, obligated public health service or Armed Forces' service, shall enter on the practice of osteopathic medicine in this State and continue in that practice for a period of one year for each \$2,000 of the loan utilized.

2. **Initial interest.** The loan shall be granted to the applicant with no interest or principal payments until one year after he has ended his attendance at that osteopathic college or university.

3. **Breach of contract.** If a recipient of a loan fails to perform his agreement with the State for reasons other than death, he shall immediately be liable to the State for all loan payments he shall have received plus interest on each payment at the rate of 6% per year compounded semiannually.

4. **Repayment of loans.** Loans shall be repaid within 12 years of graduation at the rate of 6% per year.



5. Partial payment. If a recipient of a loan practices osteopathic medicine in a community in this State for only a part of his total compensatory practice agreed upon, he shall be liable to the State only for the amount granted him under the loan plus interest at the rate of 6% per year compounded semiannually. This amount shall be reduced by a credit at the rate of \$2,000 plus interest for each year he shall have actually practiced in the State.

#### CHAPTER 421

### NATIONAL DEFENSE EDUCATION PROGRAM

#### § 8001. Acceptance of program

The State, having accepted the provisions and benefits of the United States National Defense Education Act of 1958, Public Law 85-864, shall observe and comply with that Act.

#### § 8002. Custodian of funds

The Treasurer of State shall be the custodian of all moneys received by the State from the Federal Government for administration, supervision and assistance to subdivisions of the State, in the expansion and improvement of educational programs. The treasurer may receive and provide for the proper custody of moneys and make disbursements on the order of the commissioner.

#### § 8003. State agency

The state board shall be the sole state agency to administer and supervise national defense activities under the United States National Defense Education Act of 1958, Public Law 85-864. Subject to the approval of the state board, its executive officer:

1. Rules. May make rules subject to section 3;
2. Agreements. Shall enter into agreements with state and federal agencies providing educational services related to national defense; and
3. Plans. Shall prepare, issue and amend state plans for the administration of titles of the Act requiring state plans.

#### § 8004. Appropriation

The state board may accept federal and other funds made available for purposes of education, and may cooperate with the United States Department of Health and Human Services in carrying out the United States Defense Education Act of 1958, Public Law 85-864, and other federal programs as may concern the expansion or improvement of educational programs to meet national needs.

#### CHAPTER 423

### NORTH AMERICAN INDIAN SCHOLARSHIPS

#### § 8101. Definitions

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

1. North American Indians residing in Maine. "North American Indians residing in Maine" means those persons:

A. Whose names are included on the current tribal census of either the Passamaquoddy Tribe or Penobscot Nation; or

B. Who are members of the Maliseet and Micmac Tribes and:

(1) Individually prove 1/4 Indian blood; and

(2) Have resided in this State during 5 consecutive years immediately preceding their application for a scholarship.

2. Properly accredited institutions. "Properly accredited institutions" means secondary and post-secondary institutions of learning which are:

A. Approved or accredited by the Department of Education of the state in which they are located;

B. Are approved or accredited by a regional association of secondary schools and colleges; or

C. Approved for payment of tuition by the United States Veterans' Administration.

#### § 8102. Scholarship fund

The North American Indian Scholarship Fund shall assist North American Indians residing in this State to obtain a secondary or post-secondary education, or both, from properly accredited institutions.

#### § 8103. Committee

1. Purpose. The Indian Scholarship Committee may approve grants under this chapter.

2. Composition. The Indian Scholarship Committee shall be composed as follows:

A. The superintendent of schools of Maine Indian Education;

B. One representative of the Passamaquoddy Tribe at Indian Township chosen by the tribal council;

C. One representative of the Passamaquoddy Tribe at Pleasant Point chosen by the tribal council;

D. Two representatives of the Penobscot Nation, chosen by the tribal council of the Penobscot Nation;

E. Two representatives of the Association of Aroostook Indians, Inc., chosen by the board of directors of the Association of Aroostook Indians, Inc.;

F. Two representatives of Central Maine Indian Association, Inc., one Micmac and one Mailseet, chosen by the board of directors of Central Maine Indian Association, Inc.; and

G. A representative of the Chancellor of the University of Maine.

3. Term of service. The term shall be for one, 2 or 3 years, as determined by the appointing authority.

4. Acceptance of funds. The committee may accept funds for scholarships.

#### § 8104. Application

A student meeting the requirements of properly accredited institutions may apply for a grant, not exceeding \$3,000 per year, for the purpose of paying his tuition, room, board, books and other costs of attending that institution.

#### § 8105. Institutional grant

An institution that enrolls a grant recipient may apply for a grant, not to exceed \$1,000 per enrolled grant recipient, to establish and conduct a program of support services for the grant recipient.

#### § 8106. Grant limitation

If funds are available from the Federal Bureau of Indian Affairs, a grant may not be given to any Penobscot or Passamaquoddy student or to any institution when the student is enrolled in a 4-year post-secondary degree granting program. This limitation shall not apply to Micmac or Maliseet Indians who are not eligible for Federal Bureau of Indian Affairs Scholarship assistance.

## PART 6

### TEACHERS

#### CHAPTER 501

#### REGISTRATION OF TEACHERS

#### § 9001. Certificate

1. Certificate. A person may not be employed to teach in a public school under the supervision and control of a school administrative unit unless he holds a state certificate.

2. Rules. The state board may adopt or amend rules necessary to carry out this section and sections 9002 and 9003.

3. Teaching without certificate; penalty. A person who teaches in a public school without first obtaining a teachers' certificate shall be barred from receiving pay or wages for that teaching. He shall forfeit to the school administrative unit in which he taught the amounts he has received as wages for this teaching.

**§ 9002. Certificate; issuance**

1. **Issuance.** The commissioner may issue certificates to teachers and other professional personnel for service in a public school or in an approved private school. The commissioner may issue authorizations for the employment of teacher aides, teacher assistants or other semiprofessional personnel for service in these schools.

2. **Special requirements.** A certificate may not be granted to a person unless he furnishes evidence of good moral character. A certificate may not be granted for elementary school teaching to a person who does not present satisfactory evidence of training in physiology and hygiene, with special reference to the effects of alcohol, stimulants and narcotics upon the human system.

3. **Reciprocity.** Certificates may be granted to a person holding certificates granted by another state.

**§ 9003. List of persons certified; records confidential**

1. **Records.** The commissioner shall keep a list of certified persons in his office. This list shall be a public record. The commissioner shall send copies of the list to school boards and superintendents on their request.

2. **Records confidential.** Transcripts, recommendations and other documents submitted in support of an application for certification and maintained in the office of the commissioner shall be confidential. They may only be made available to the following:

- A. School boards and superintendents;
- B. Authorized personnel of the department in fulfilling assigned duties; and
- C. Individuals and their representatives who request to examine their own records.

3. **Duplication costs.** An individual requesting copies of his records shall bear the costs of copying them.

**§ 9004. Registration; list furnished; fee**

1. **Application.** A person eligible to receive or holding a teachers' certificate, may register as a candidate for employment as a teacher in the public schools on application to the commissioner and payment of \$5. The commissioner shall prescribe the manner of the application.

2. **Providing information.** On request, the commissioner shall furnish information relative to registered persons to school boards or superintendents. He shall furnish information relative to vacancies in positions in public schools to registered persons.

3. **Responsibility of commissioner.** The commissioner or a person employed under his direction may not be held responsible for, nor be understood to vouch for, the fitness or success of a teacher who may secure a position in a public

school through the operation of this section. The acceptance of this enrollment and the payment of the required fee may not be construed as a guarantee for securing employment as a teacher.

4. Fee. The fee shall entitle registration for one year.

§ 9005. Clerical assistance; disposition of fees

1. Rules. The commissioner may adopt or amend rules for carrying out section 9004 and for obtaining information required as to the experience, qualifications and character of persons seeking employment as teachers. A teacher may be eligible for consideration for employment only so long as he complies with these rules.

2. Accounting. The commissioner shall collect and give a receipt for all registration fees. He shall report and pay these fees to the Treasurer of State. These fees shall be credited to the General Fund.

3. Clerical assistants. The commissioner may employ clerical and other assistants, subject to the Personnel Law. They shall perform their duties under the general supervision of the commissioner.

## CHAPTER 503

### TEACHERS' SALARIES

§ 9101. Equal pay

In assigning salaries to teachers of public schools, discrimination may not be made between male and female teachers with the same training and experience employed in the same grade or performing the same kinds of duties.

§ 9102. Minimum salaries

1. Minimum salary schedule. A school administrative unit shall employ only certified teachers. It shall pay those teachers, except substitute teachers as defined by the commissioners, the following minimum salaries.

Years of Teaching Experience	Certified Teachers	Teachers with 3 yrs. of Professional Study Beyond High School	Teachers with 4 Years of Study Beyond High School and with a Bachelor's Degree	Teacher with an earned Master's Degree
0	\$3,500	\$4,000	\$5,000	\$5,300
1	3,600	4,200	5,200	5,500
2	3,700	4,400	5,400	5,700
3	3,800	4,600	5,700	6,100

4	3,900	4,800	6,100	6,500
5	4,000	5,000	6,500	6,900
6	4,100	5,200	6,700	7,100
7	4,200	5,400	6,900	7,300
8	4,300	5,600	7,100	7,500
9	4,400	5,800	7,300	7,700
10	4,500	6,000	7,500	8,000

2. Increase. Notwithstanding other provisions of this section a school administrative unit may not be required to increase the salary of any teacher more than \$500 in one school year.

3. Substitute teachers. Substitute teachers with 4 years of study beyond high school and with a bachelor's degree and a teacher's certificate and substitute teachers who have retired after a minimum of 15 years teaching shall be compensated at the rate of not less than \$20 for each day of service.

4. Annuity contract premiums. Money paid by a school administrative unit as a premium for an annuity contract for the benefit of an employee shall, for purposes of minimum salaries for teachers, be considered part of that employee's salary.

#### § 9103. Recertification; permits and special licenses

1. Renewal of certificates. The renewal of a teaching certificate shall be conditional on the completion of at least 6 hours of professional study within each period of 5 years.

2. Ten-year term certificate. The following teachers may be declared eligible for a 10-year term certificate, renewal of which is conditional on the presentation of evidence of professional improvement acceptable to the commissioner:

A. Teachers qualifying for standard grade certificates, completing 18 credit hours of post-baccalaureate study, and teaching successfully for not less than 4 years; and

B. Certified teachers who have taught successfully for not less than 25 years.

3. Reimbursement. When a certified teacher completes, within any 2-year period, 6 credit hours of additional professional work approved by the superintendent, the school administrative unit shall pay that teacher not less than \$100.

4. Permits or special licenses. If the employment of teachers under permit or other special license is authorized by the commissioner, he may prescribe minimum salaries and other rules for this class of teachers.

**CHAPTER 505**  
**MISCELLANEOUS**

**§ 9201. Sick leave**

1. **Minimum annual sick leave.** A school administrative unit shall grant all certified teachers, except substitute teachers as defined by the commissioner, a minimum annual sick leave of 10 school days, cumulative to a minimum of 90 school days, without loss of salary.

2. **Transferrance of sick leave.** A school administrative unit which employs certified teachers who have accumulated sick leave in the teacher's immediately previous position in a public school system within the State shall accept up to 20 days of that sick leave for transfer to the employing school administrative unit. This sick leave shall be credited and made effective upon achieving continuing contract status in the employing unit, provided that:

A. There shall have been no break in service in that teacher's public school employment within the State; and

B. The teacher was eligible to receive sick leave in his previous position at the time of his termination of employment.

3. **Alternate sick leave plans.** The commissioner may approve another plan of sick leave which provides at least equal benefits to those of subsections 1 and 2.

4. **Teachers' assistants and aides.** Full-time teachers' assistants and teachers' aides shall be granted minimum annual sick leave of 10 school days.

**§ 9202. Leave of absence as Legislators**

A school administrative unit shall grant a certified teacher, except a substitute teacher as defined by the commissioner, leave of absence without pay and without forfeiture of continuing contract status and other accumulated benefits to fulfill the duties of a Legislator, provided that he provides a written notice of intent to become a candidate for the Legislature at the time teacher contracts are issued.

**§ 9203. Residence requirements**

1. **Collective bargaining.** If a school administrative unit engages in collective bargaining as required in Title 26, then it may not adopt a rule which requires employees to reside within the boundaries of the unit as a condition for employment. A collective bargaining agreement may include a residency requirement for persons not yet employed at the time the agreement becomes effective.

2. **Not engaging in collective bargaining.** If a school administrative unit does not engage in collective bargaining as required in Title 26, then a rule it adopts which requires employees to reside within the boundaries of the unit may not apply to employees who are employed at the time the rule becomes effective.

**CHAPTER 507**  
**INTERSTATE AGREEMENT ON QUALIFICATIONS OF**  
**EDUCATIONAL PERSONNEL**  
**SUBCHAPTER I**  
**AGREEMENT**

**§ 9301. Purpose, findings and policy — Article I**

1. **Purpose.** The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. **Findings.** The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared, and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

**§ 9302. Definitions — Article II**

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. **Accept.** “Accept”, or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

2. **Designated state official.** “Designated state official” means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

3. **Educational personnel.** “Educational personnel” means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.



4. **Originating state.** “Originating state” means a state, and the subdivision thereof, if any, whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

5. **Receiving state.** “Receiving state” means a state, and the subdivisions thereof, which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

6. **State.** “State” means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

**§ 9303. Interstate educational personnel contracts — Article III**

1. **Contracts.** The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this Article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

2. **Provisions.** Any such contract shall provide for:

A. Its duration;

B. The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state;

C. Such waivers, substitutions and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards;

D. Any other necessary matters.

3. **Term.** No contract made pursuant to this agreement shall be for a term longer than 5 years but any such contract may be renewed for like or lesser periods.

4. **Acceptance.** Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. **Revocation or suspension.** The certification or other acceptance of a

person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. Review. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

§ 9304. Accepted and approved programs — Article IV

1. Training requirements. To the extent that contracts made pursuant to this agreement deal with the academic or other educational training requirements for the proper qualification of educational personnel, the principles set forth in this Article shall govern.

2. Effect of approval. The approval, by the appropriate state or local authorities pursuant to the laws of a sending state, of a program of educational training shall have such effect on the qualification of educational personnel within that state as its laws provide.

3. Acceptance. Acceptance of a program of educational preparation or training for purposes of this agreement shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

§ 9305. Interstate cooperation — Article V

The party state agree that:

1. Multi-lateral contracts. They will, so far as practicable, prefer the making of multi-level contracts pursuant to Article III of this agreement.

2. Cooperation. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations and associations interested in certification and other elements of educational personnel qualification.

§ 9306. Agreement evaluation — Article VI

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

§ 9307. — other arrangements — Article VII

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

**§ 9308. Effect and withdrawal — Article VIII**

1. **Effective.** This agreement shall become effective when enacted into law by 2 states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

2. **Withdrawal.** Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. **Obligations.** No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

**§ 9309. Construction and severability — Article IX**

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the Constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

## **SUBCHAPTER II**

### **PROVISIONS RELATING TO COMPACT**

**§ 9351. Designated state official**

The “designated state official” for this State shall be the Commissioner of Educational and Cultural Services. He may enter into contracts pursuant to Article III of the agreement only with the approval of the specific text thereof by the State Board of Education.

**§ 9352. True copies filed**

True copies of all contracts made on behalf of this State pursuant to the agreement shall be kept on file in the office of the Commissioner of Educational and Cultural Services and in the office of the Secretary of State. The Commissioner of Educational and Cultural Services shall publish all such contracts in convenient form.

**PART 7**  
**SCHOOL FINANCE**

**CHAPTER 601**

**GENERAL PROVISIONS**

**§ 10001. Definitions**

As used in this chapter, chapters 503, 505 and 605 and sections 2001, 2002, 4053, 5652, 5654, 5702 to 5706 and 5751 to 5760, unless the context indicates otherwise, the following terms have the following meanings.

1. **Aggregate attendance.** “Aggregate attendance” means the total number of days of attendance for one school year in elementary and secondary schools of each regularly enrolled pupil resident of the municipality.

2. **Membership.** “Membership” means active participation in the program of a school from the date of enrollment to the time the student withdraws or is absent from the school for 10 consecutive days for reasons other than illness.

3. **Teaching positions.** “Teaching positions” means positions in elementary and secondary schools filled by classroom teachers, assistant classroom teachers, school principals, school nurses, supervisors, assistants to supervisors and teachers of special subjects, except for a position used as a basis for payment of state aid for vocational education, or as a position filled by a person devoting less than half of the school day to the duties of that position.

A. In a secondary school, the number of teaching positions for each municipality shall be determined as follows:

$$\begin{array}{l} \text{number of each} \\ \text{municipality's} \\ \text{teaching positions} \end{array} = \frac{\begin{array}{l} \text{aggregate attendance} \\ \text{of pupils residing in} \\ \text{the municipality} \end{array}}{\begin{array}{l} \text{aggregate attendance} \\ \text{of all the school's} \\ \text{regularly enrolled} \\ \text{pupils} \end{array}} \begin{array}{l} \text{number of} \\ \text{teaching} \\ \text{positions in the} \\ \text{schools} \end{array}$$

B. If a teaching position is maintained for only part of a school year, it shall be counted as follows:

$$\begin{array}{l} \text{teaching position} \\ \text{count} \end{array} = \frac{\begin{array}{l} \text{number of weeks the} \\ \text{position is maintained} \end{array}}{\begin{array}{l} \text{total number of weeks} \\ \text{in the school year.} \end{array}}$$

**§ 10002. Permanent School Fund**

The Treasurer of State shall keep a separate account of money received from

sales of lands appropriated for the support of schools or from notes taken from them and of other money appropriated for the same purpose. This sum shall constitute a Permanent School Fund, which shall be invested in securities which are legal investments for savings banks under Title 9. The income shall accrue to a fund to be allocated to administrative units by the commissioner for the purpose of surveying school systems and developing school plans. The allocation shall not exceed  $1/2$  of the cost of the surveys or plans.

**§ 10003. School fiscal year**

Notwithstanding any statute or charter provision to the contrary, a school administrative unit shall annually adopt a school budget for a period beginning on July 1st and ending on June 30th.

**§ 10004. Unexpended balances**

The unexpended balance of all moneys raised by a school administrative unit, received: From the State for general-purpose aid or for other educational programs; from the Federal Government directly or from the Federal Government through the State; from tuition payments made by other units, the State, or by individuals; and other receipts for school purposes shall be carried forward and credited to the unit for educational programs for the ensuing year.

**§ 10005. Apportionments**

1. **Apportionments.** Apportionments to school administrative units and private schools, unless specifically directed by statute, shall be made annually commencing in July in the following manner. An amount not to exceed  $1/12$  of the subsidy shall be paid each month no later than the last day of the month. A balance shall be paid in the last month of the annual period.

2. **Vocational centers.** Payments may be made to vocational centers at the times and in the amounts as the commissioner may authorize.

3. **Return required.** An apportionment provided in this chapter, chapters 109, 503 and 605, and sections 4053 and 9201, and Title 20, section 3457, may not be paid to a school administrative unit by the Treasurer of State until returns required by law have been filed with the commissioner.

4. **Failure to file return.** When the information required by the chapters and sections listed in subsection 3 is not available because of the failure of the school administrative unit, through its officers, to make the returns required by law, or because of the loss or destruction of the school records of the unit, the commissioner may use a basis for apportionment numbers on which the apportionment for the unit was made for the preceding year less 10%.

**CHAPTER 603**

**FEDERAL AID**

**§ 10101. State acceptance of federal constructions aid laws**

The State may accept an Act of Congress providing for financial assistance to states for the construction of school facilities or other similar purposes. If accepted, the State shall comply with the provisions of the Act of Congress, including regulations published by the United States Department of Education under the Act which have the force of law when published in the Federal Register.

§ 10102. State board as state agency

The state board shall be the sole agency for administering funds allotted under a federal Act providing for financial assistance in the operation and construction of school facilities, including higher educational facilities. It may certify to the United States Department of Education information necessary to entitle the State to receive the benefits of the Act. The state board may elect that a portion of a federal allotment be in the form of the commitment by the Federal Government to make payments of interest and principal on debts of local agencies for the construction of school facilities or other similar purpose.

§ 10103. Treasurer of State as custodian

The Treasurer of State shall be custodian for moneys received by the State from appropriations allotted under the authority of a Federal Act providing for financial assistance for constructing school facilities or other similar purpose. The Treasurer of State may receive and provide for the proper custody of these funds and make disbursements from them on the order of the state board, its executive officer or other legal authority.

§ 10104. Appropriations authorized

Where federal law requires matching by state funds, the state board may estimate the appropriations necessary to comply with the requirements of the federal law and include those estimates in the budget request of the department for appropriations to be made by the Legislature.

1. No obligation. Nothing in this chapter shall be construed as obligating the State to make these appropriations if the Legislature, in its judgment, shall deem it in the best interest of the State not to make such appropriations and to waive any allotments of federal funds the allotment of which is contingent upon state appropriations.

2. Local funds. To the maximum extent possible under a federal Act, school construction assistance presently authorized and paid under Title 20, section 3457 shall be considered as state funds used to match federal funds.

## CHAPTER 605

### THE SCHOOL FINANCE ACT

§ 10201. Short title

This chapter may be cited as the "School Finance Act."

**§ 10202. Intent**

1. **Contributions from General Fund.** It is the intent of the Legislature to provide at least 50% of the cost of the basic education allocation from General Fund revenue sources or a percentage no less than that provided in the year prior to the year of allocation, whichever is greater.

2. **Amount of basic education allocation.** It is the intent of the Legislature that the basic education allocation for elementary and secondary operating costs, as annually established by the Legislature, shall be an amount sufficient to meet the level of the costs in the year prior to the year of allocation.

3. **Transportation costs for nonprofit private schools.** It is the intent of the Legislature to reduce the transportation costs incurred on behalf of the nonprofit private schools in this State by reducing those costs to the extent and in the manner permitted by section 10210, subsection 6.

**§ 10203. Definitions**

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

1. **Actual education costs.** “Actual education costs” means the state and local expenditures during the base year for the programs and adjustments specified in section 10204.

2. **Average elementary per pupil operating costs.** “Average elementary per pupil operating costs” means the costs computed by dividing elementary operating costs for the base year by the average number of resident elementary pupils on October 1st and April 1st in the base year.

Special education students for whom tuition is paid in programs approved by the commissioner shall not be counted nor otherwise included in determining the average elementary per pupil operating costs.

3. **Average secondary per pupil operating costs.** “Average secondary per pupil operating costs” means the costs computed by dividing secondary operating costs for the base year by the average number of resident secondary pupils on October 1st and April 1st in the base year.

A. Special education students for whom tuition is paid in programs approved by the commissioner shall not be counted nor otherwise included in determining the average secondary per pupil operating costs.

B. A student graduating from grade 12 during the base year period to April 1st shall be counted as though he were in attendance on April 1st of that year.

4. **Base year.** “Base year” means the 2nd year prior to the year of allocation of funds.

5. **Basic education allocation.** “Basic education allocation” means the total amount of the state-local allocation for the following programs:

- A. Elementary operating costs;
- B. Secondary operating costs;
- C. Special education programs operated by the school administrative unit;
- D. Special education tuition and board, excluding medical costs, for pupils placed by the school administrative unit;
- E. Vocational education;
- F. Transportation; and
- G. Debt service.

6. Basic education appropriation. "Basic education appropriation" means the amount appropriated from General Fund revenue sources for all public education programs established by the Legislature under section 10207.

7. Basic elementary per pupil operating rate. "Basic elementary per pupil operating rate" means the rate established by the Legislature in section 10207, subsection 1.

8. Basic secondary per pupil operating rate. "Basic secondary per pupil operating rate" means the rate established by the Legislature in section 10207, subsection 2.

9. Capital outlay. "Capital outlay" means major or minor capital costs.

10. Debt service costs. "Debt service costs," for subsidy purposes, includes:

- A. Principal and interest costs for approved major capital projects;
- B. The portion of the tuition costs applicable to the insured value factor computed under section 4053; and
- C. Lease costs for school buildings when the leases have been approved by the commissioner.

11. Elementary grades. "Elementary grades" includes a childhood educational program, as defined by section 3101, through grade 8.

12. Institutional resident. "Institutional resident" means a person between the ages of 5 and 20 who is attending a public school of the school administrative unit and who is committed or otherwise legally admitted to, and residing at, a state-operated institution.

13. Local allocation. "Local allocation" means a school administrative unit's portion of the state-local allocation.

14. Major capital costs. "Major capital costs" means costs relating to school construction projects as defined in section 10401.

15. Minor capital costs. "Minor capital costs" means costs relating to maintenance of plant and minor remodeling and site development not in conjunction with a construction project.



A. Funds expended to repay funds borrowed for maintenance of plant and minor remodeling shall be considered minor capital costs in the year which these funds are repaid.

B. Minor capital costs shall not include construction of new buildings or the purchase of land.

16. Municipality. "Municipality" includes cities, towns and organized plantations.

17. Operating costs. Except as listed in this subsection, "operating costs" includes all costs minus applicable tuition receipts. It includes minor capital costs. The following costs shall not be included as "operating costs:"

A. Transportation costs;

B. Community service costs;

C. Major capital costs;

D. Debt service costs;

E. Expenditures from all federal revenue sources except for amounts received under Public Law 874;

F. Special education costs;

G. Vocational education cost; and

H. Costs of maintaining:

(1) The Governor Baxter State School for the Deaf;

(2) The Maine Youth Center; and

(3) Schools in the unorganized territories as defined in section 4201.

18. Reimbursement rate. "Reimbursement rate", for all programs contained in the basic education allocation, means the rate computed by dividing the state allocation by the state-local allocation, expressed as a percentage.

19. Secondary grades. "Secondary grades" means grades 9 through 12.

20. Special education costs. "Special education costs", for subsidy purposes, includes:

A. The costs of certified professionals, assistants and aids or persons contracted to perform a special education service; and

B. The costs of tuition and board to other schools for programs which have been approved by the commissioner.

21. State allocation. "State allocation" means the amount allocated from General Fund revenue resources to fund the state's portion of the state-local allocation.

22. State-local allocation. "State-local allocation" means the total amount allocated to a school administrative unit during the year of allocation for the programs and adjustments computed in sections 10208 and 10209. A state-local

allocation shall include a school administrative unit's share of vocational region debt service, if any.

23. **State-operated institution.** "State-operated institution" means any residential facility or institution which is operated by the Department of Mental Health and Corrections.

24. **Subsidy index.** "Subsidy index" means the equivalent of a mill rate which, if applied to the state valuation of all municipalities and as limited by section 10211, subsection 1, paragraph C, would raise not more than 50% of the basic education allocation.

This index may not be levied but shall be used for the purpose of computed allocations.

25. **Vocational education costs.** "Vocational education costs," for subsidy purposes, means all costs incurred by the vocational regions, centers or satellites, in providing approved secondary school vocational education programs as defined by section 5605, subsection 3.

26. **Year.** "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year.

§ 10204. Notification of actual education costs; other information; mandatory reports; audit adjustments

1. **Notification; items.** Prior to December 1st of each year, the commissioner shall notify the Legislature and the Bureau of the Budget of actual education costs. This notification shall include the following items:

- A. Elementary operating costs;
- B. Secondary operating costs;
- C. Special education costs for programs operated by school administrative units;
- D. Special education tuition and board, excluding medical costs, defined as follows:
  - (1) Tuition and board for pupils placed by school administrative units;
  - (2) Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner;
  - (3) Special education tuition and other tuition for institutional residents of state-operated institutions attending programs in school administrative units in accordance with rules adopted or amended by the commissioner; and
  - (4) Adjustment under section 10209, subsection 6;
- E. Vocational education costs;
- F. Transportation costs;
- G. Debt service costs;
- H. Costs of unusual enrollment adjustments;

- I. Costs of geographic isolation adjustments;
- J. Costs of adjustments for small school administrative units;
- K. Costs of reimbursement for private school services;
- L. Audit adjustments;
- M. Local and state funds raised under section 10211, subsection 3;
- N. Local funds raised under section 10212; and
- O. Cost of state expenditures for teachers' retirement benefits.

2. Additional information. The commissioner shall provide additional information requested by the Legislature.

3. Required reports; subsidy payments withheld. A school administrative unit shall provide the commissioner with information he requests to carry out the purposes of this chapter, according to time schedules which he shall establish by adopting or amending rules.

The commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed within specified time schedules.

4. Audit adjustments. The commissioner may correct errors revealed by audit in a school administrative unit when compiling actual education costs.

**§ 10205. Commissioner's recommendation for funding levels; computation; guidelines**

1. Annual certification. Prior to December 15th of each year, the commissioner, with the approval of the state board, shall certify to the Bureau of the Budget the funding levels he recommends for section 10204, subsection 1, paragraphs A through K and M, and for the state's maximum obligation under section 10211, subsection 3.

2. Funding level computations. The following are funding level computations.

A. The requested funding levels of section 10204, subsection 1, paragraph C; paragraph D, subparagraph (1) and paragraphs E and K; transportation operating costs under paragraph F; and the insured value factor under paragraph G shall be the actual costs for the base year.

B. The requested funding levels of section 10204, subsection 1, paragraph D, subparagraphs (2) and (3), shall be computed by estimating those costs in the year of allocation of funds.

C. The requested funding level for the purchase of buses under section 10204, subsection 1, paragraph F, shall be the same as the level of purchases approved by the commissioner for the year prior to the year of allocation.

D. The requested funding level of principal and interest payments under section 10204, subsection 1, paragraph G, shall be computed by adding both known obligations and the estimate of anticipated principal and interest costs for the year of allocation of funds.

E. The requested funding level for leases under section 10204, subsection 1, paragraph G, shall be the same as the level of leases approved by the commissioner for the year prior to the year of allocation.

3. Estimate guidelines for elementary and secondary operating costs. The recommendation for elementary and secondary operating costs shall reflect the commissioner's best estimate as to changes in pupil enrollment, economic factors, adjustments based on actual changes in education costs and other considerations which might effect a change in the costs of education. The commissioner shall be ever conscious of the need for prudent restraint in education financing, in making these estimates.

**§ 10206. Governor's recommendation for funding levels**

The Bureau of the Budget shall annually certify to the Legislature the funding levels which the Governor recommends for section 10204, subsection 1, paragraphs A through K and the state's maximum obligation under section 10211, subsection 3. The Governor's recommendations shall be transmitted to the Legislature within the time schedule set by Title 5, section 1666.

**§ 10207. Actions by the Legislature**

The Legislature shall annually, prior to May 1st, enact legislation which shall:

1. Basic elementary per pupil operating rate. Establish the basic elementary per pupil operating rate;
2. Basic secondary per pupil operating rate. Establish the basic secondary per pupil operating rate;
3. Basic education allocation. Establish the basic education allocation;
4. Subsidy index. Establish a subsidy index for the year of allocation.
5. Appropriation for basic education allocation. Appropriate the necessary funds for the state's share of the basic education allocation as defined in section 10203 and computed in sections 10208 and 10209, subsections 1 and 3;
6. Appropriation for state share of local leeway. Appropriate the necessary funds to meet the maximum state obligation under section 10211, subsection 3;
7. Appropriation for unusual enrollment. Appropriate the necessary funds for the contingent account for unusual enrollment adjustments established by section 10209, subsection 4;
8. Appropriation for geographic isolation. Appropriate the necessary funds for adjustments due to geographic isolation as determined by section 10209, subsection 2;
9. Appropriation for small administrative units. Appropriate the necessary funds for adjustments to small school administrative units which qualify in accordance with section 10209, subsection 8;

10. Appropriation for audit adjustments. Appropriate the necessary funds for audit adjustments under section 10209, subsection 7;

11. Appropriation for private school student services. Appropriate the necessary funds for reimbursement for private school student services under section 10210, subsection 6; and

12. Appropriation for pupils placed directly by the State and for institutional residents. Appropriate the necessary funds for:

A. Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner; and

B. Special education tuition and other tuition for institutional residents of state-operated institutions attending programs in school administrative units in accordance with rules adopted or amended by the commissioner.

**§ 10208. Computation of the state-local allocation prior to adjustments**

The commissioner shall compute the state-local allocation to a school administrative unit prior to adjustments under section 10209, as follows.

1. Elementary education allocation. The elementary education allocation shall be determined by multiplying the average number of resident elementary pupils in the unit on April 1st and October 1st of the calendar year immediately prior to the year of allocation, excluding special education tuition pupils, by the basic elementary per pupil operating rate, as established in section 10207.

2. Secondary education allocation. The secondary education allocation shall be determined by multiplying the average number of resident secondary pupils in the school administrative unit on April 1st and October 1st of the calendar year immediately prior to the year of allocation, excluding special education tuition pupils, by the basic secondary per pupil operating rate as established in section 10207. Pupils enrolled in programs for school dropouts and truants shall be counted in the manner provided in section 3404 and pupils enrolled in adult education programs eligible for state subsidies shall be counted in the manner provided in section 5805.

3. Basis of state-local allocation for special education, vocational education, transportation and debt service; legislative changes; transportation costs. The following are provisions for the basis of state-local allocation for special education, vocational education, transportation and debt service, legislative changes and transportation costs.

A. A school administrative unit's state-local allocation for each of the items identified in subsections 4 through 7, except as otherwise specified, shall be 100% of actual expenditures during the base year as is contained in the commissioner's recommendation of education costs.

**B. If the Legislature increases or decreases the commissioner's recommendation for an item, the unit allocation shall be increased or decreased by the same percentage.**

**C. If the Legislature appropriates for the transportation of pupils an amount which differs from the commissioner's recommendation, the percentage of increase or decrease in the amount shall apply only to the operating cost and not to the purchase of buses.**

**4. Special education allocation; state wards. The following provisions apply to special education allocation and state wards.**

**A. The special education allocation shall be the expenditures for special education programs operated or contracted for by the school administrative unit and the expenditures for special education tuition or board. Medical costs shall not be allowable as a part of a tuition charge.**

**B. Special education tuition and board for state wards and other pupils placed directly by the State shall be paid by the State in the year of allocation at 100% of the actual cost.**

**5. Vocational education allocation; billing authority; appeal to commissioner; payment of state subsidy. The following provisions apply to vocational education allocation, billing authority, appeals to commissioner and payment of state subsidy.**

**A. The vocational education allocation shall be the expenditures for vocational education programs serving the school administrative unit.**

**B. A vocational center or region may bill other school administrative units as follows.**

**(1) A vocational center may bill its member units for any legislatively approved reduction in vocational education subsidies in proportion to the number of students served on October 1st and April 1st of the school year immediately prior to the year of allocation. A vocational region may bill vocational centers for students who are sent to the region for vocational education programs in the same manner.**

**(2) If a bill is not paid within 30 days after submission, the vocational center or region may appeal to the commissioner under section 4053.**

**6. Transportation allocation; bus purchases. The following provisions apply to transportation allocation and bus purchases.**

**A. The transportation allocation shall be the unit's expenditures for transportation operating costs.**

**B. Reimbursement for expenditures for bus purchases shall be limited to the total of expenditures for purchases approved by the commissioner and made during the year prior to the year of allocation.**

7. Debt service allocation; reimbursement for major capital projects; reimbursement for lease costs; vocational region debt service. The following provisions apply to debt service allocation, reimbursement for major capital projects, reimbursement for lease costs and vocational region debt service.

A. Debt service allocation shall be limited to lease expenditures approved by the commissioner, insured value factor expenditures and principal and interest costs for major capital projects.

B. Principal interest costs for major capital projects shall be reimbursed in the year of allocation.

C. Reimbursement for lease costs shall be limited to total lease expenditures approved by the commissioner and made during the year prior to the year of allocation.

D. State allocations for vocational region debt service shall be computed as follows.

(1) A member school administrative unit's prorated share of the region's debt service payment shall be determined by the region's cost-sharing agreement and shall be included in the member unit's state-local allocation.

(2) The reimbursement rate, as defined in section 10203, subsection 18, for a member school administrative unit shall be multiplied times the unit's prorated share of the region's debt service payments to establish the state allocation for vocational region debt service for that member unit.

(3) The sum of the member school administrative unit's state allocations for vocational region debt service shall be the region's state allocation for debt service.

**§ 10209. Adjustments included in state-local allocation**

Adjustments to the state-local allocation shall be made as allowed in subsections 1 to 8. A school administrative unit may not be eligible for the adjustments identified in subsections 2, 4, 5, 6 and 8 unless it has raised the maximum amount of its local allocation.

1. Equalizing adjustments; below and above average per pupil operating costs. The following provisions apply to equalizing adjustments, and below and above average per pupil operating costs.

A. If a school administrative unit's average elementary or secondary per pupil operating cost in the base year is less than the basic elementary or secondary per pupil operating rate, the unit's per pupil state-local allocation for elementary or secondary pupils respectively shall be limited to an amount which equals:

(1) The unit's average elementary or secondary per pupil operating costs for the base year; and

(2) An amount equivalent to  $\frac{1}{3}$  of the difference between:

- (a) The unit's per pupil elementary or secondary cost for the base year, as adjusted; and
- (b) The basic elementary or secondary per pupil operating rate respectively.

B. If a school administrative unit's average elementary or secondary per pupil operating cost for the base year is above the basic elementary or secondary per pupil operating rate, the per pupil allocation for elementary or secondary pupils respectively shall be the basic elementary or secondary per pupil operating rate. If the 1973-74 expended local average elementary or secondary per pupil operating cost exceeds the average elementary or secondary per pupil operating rate, the per pupil allocation for elementary or secondary pupils shall be increased by  $\frac{1}{2}$  the lesser amount of the following differences:

- (1) The difference between the basic elementary or secondary per pupil operating rate and the local average elementary or secondary per pupil operating cost; or
- (2) The difference between the basic elementary and secondary per pupil operating rate and the local average elementary or secondary per pupil operating cost expended during the 1973-74 school year.

2. Geographic isolation; determination; adjustment limitation. The following provisions apply to geographic isolation, determination and adjustment limitation.

A. The commissioner, with the approval of the state board, shall determine geographic isolation if a school administrative unit is located an unreasonably long distance from another school administrative unit or school facility or is situated in a location which has unique problems in transporting students to another school administrative unit.

B. If the school administrative unit is declared to be geographically isolated, the commissioner shall adjust the elementary and secondary per pupil allocation to that unit to meet the educational needs of that unit.

C. The geographic isolation adjustment shall not exceed the amounts expended by the school administrative unit in the base year which were in excess of the basic elementary and secondary per pupil operating rates in the year of allocation.

3. Pupils on federal land; adjustment; limitation. The following provisions apply to pupils on federal land, adjustment and limitation.

A. A school administrative unit which enrolls eligible pupils under the United States Laws of September 30, 1950, Chapter 1124, United States Code, Section 236, et seq., shall count those pupils as resident pupils for purposes of this chapter.



**B.** The state-local allocation to that school administrative unit shall be adjusted by subtracting the receipts under the United States Laws of September 30, 1950, Chapter 1124, United States Code, Section 236, et seq., in the same proportion that total local revenues under the state equalization program are to total local revenues for education in that unit.

**C.** The amount subtracted under paragraph B may not exceed 90% of the school administrative unit's entitlement for the year prior to the year of allocation or the base year, whichever is less. In adjusting the allocation, the amounts subtracted for pupils residing on land under control of the Federal Government or a federal agency, or on a federal military reservation shall not exceed 1/2 of the national average expenditure per pupil, as computed by the Federal Government, multiplied times the number of the students in the school administrative unit.

**4. Unusual enrollment; computation of adjustment; proration; local authorization; contingent account.** The following provisions apply to unusual enrollment, computation of adjustment, proration, local authorization and contingent accounts.

**A.** A school administrative unit may qualify for an unusual enrollment subsidy adjustment when the increase in pupils between October 1st of the year of allocation of funds and October 1st of the year prior to the year of allocation of funds is 3% or more. The number of pupils in excess of a 3% increase shall be multiplied by the appropriate per pupil rate as established in this section to determine the allowable adjustment.

**B.** All school administrative units shall be prorated if necessary to remain within the sum appropriated for that adjustment.

**C.** A school administrative unit may expend any funds received through this adjustment without calling for a special meeting of the local legislative body.

**D.** There is established within the department a contingent account for unusual enrollment subsidy adjustments.

**E.** The commissioner may use an unexpended balance in the amount appropriated for unusual enrollment increases to reimburse a school administrative unit which:

- (1) Has experienced an unusual enrollment increase;
- (2) Has not raised the maximum amount of its local allocation; and
- (3) Has received a state allocation.

**5. Decrease in enrollment; guaranteed allocation.** A school administrative unit which experiences a decrease in enrollment in either elementary or secondary education programs of 33% or greater between April 1st of the base year and October 1st of the year prior to the year of allocation shall, at a maximum, have

its state-local allocation based on the basic elementary or secondary per pupil operating rate.

6. Special education adjustment; guidelines; limits; local authorization. The following provisions apply to special education adjustment, guidelines, limits and location authorization.

A. If a school administrative unit petitions the commissioner and demonstrates that the unexpected costs of placement for educational purposes of a student in a special education program will cause a budgetary hardship, the commissioner may adjust the unit's allocation to include an amount not to exceed the educational cost of the placement under rules adopted or amended by the commissioner.

B. The funds for the adjustment shall be limited to the amount appropriated by the Legislature for that purpose.

C. School boards may expend the funds allocated without seeking approval from their legislative bodies.

7. Audit adjustments; limits. The following provisions apply to audit adjustments and limits.

A. If errors are revealed by audit and corrected by the commissioner under section 10204, subsection 4, the school administrative unit's state-local allocation shall be adjusted to include corrections.

B. The funds for these adjustments shall be limited to the amount appropriated by the Legislature under section 10207, subsection 10.

8. Small unit subsidy adjustments; legislative intent. A school administrative unit may qualify for one of the following small unit subsidy adjustments.

A. If a school administrative unit is operating an elementary school with 25 pupils or less in kindergarten through grade 8 during the school year immediately prior to the year of allocation, it shall receive a minimum allocation for operating costs equal to  $\frac{5}{3}$  of the state average elementary teachers' salary in the school year immediately prior to the year of allocation as determined by the commissioner.

B. If a school administrative unit is not operating an elementary school or a secondary school and has 25 pupils or less in the kindergarten through grade 8 during the school year immediately prior to the year of allocation, it shall receive a minimum allocation computed by multiplying the elementary or secondary pupil enrollment on October 1st in the year of allocation by the state average elementary or secondary adjusted per pupil operating rate or the actual cost of tuition payment in the year of allocation, whichever is less.

C. The small unit subsidy adjustment shall guarantee a minimum subsidy payment for operating costs to those school administrative units which qualify

and it shall be made only after the adjustments in subsections 1 through 7 have been made.

**§ 10210. Schedules of payment of state allocation; appeals; limitation of use**

**1. Schedules of payment of state allocation.** The commissioner shall authorize state allocation payments to the school administrative units to be made in accordance with time schedules set forth in section 10005, sections 10401 to 10410 and Title 20, sections 3457 to 3460.

**2. Notification of allocation; commissioner's duty; superintendent's duty.** The following provisions apply to notification of allocation, commissioner's duty and superintendent's duty.

**A.** The commissioner shall annually, on or before May 21st, notify each school board of the amount allocated to the school administrative unit.

**B.** Each superintendent shall report to the municipal officers whenever the school administrative unit is notified of the allocation or a change is made in the allocation resulting from a December or June adjustment.

**3. Payments of state allocation to unit's treasurer; basis.** State allocation payments shall be made directly to the treasurer of each school administrative unit. They shall be based on audited financial reports submitted by school administrative units.

**4. Computation of state allocation payments to community school districts.** If a community school district is organized to educate some, but not all, of the grades from kindergarten through grade 12, the commissioner shall compute state allocation payments for the member municipalities as follows:

**A.** Compute the average number of resident pupils in the municipality on April 1st and October 1st of the calendar year prior to the year of allocation;

**B.** Compute the average number of resident pupils during this period who were not educated by the community school district;

**C.** Multiply the ratio of paragraph B divided by paragraph A times the state valuation for the municipality as determined by the State Tax Assessor. The result shall be the part of the member municipality's valuation which the department shall use to compute state aid for the municipality; and

**D.** The sum of the remaining valuation of each member municipality shall be the total state valuation which the department shall use to compute state aid for the community school district.

**5. State allocation payments to vocational regions.** State allocations for debt service on bonds issued by the cooperative boards of vocational regions shall be paid directly to the treasurers of the boards notwithstanding any other statute.

**6. Nonpublic school service reimbursements.** The following provisions apply to nonpublic school service reimbursements.

A. Notwithstanding any other provision of this chapter, if students attend private schools that are not operated for profit in whole or in part, the commissioner shall reimburse 50% of the expenditures of the base year for providing services to these private school students as authorized by Title 30, section 5104, subsections 5 through 8. Municipal officers shall report these expenditures to the commissioner on forms provided by him.

B. The total amount reimbursed under this section shall not exceed the level of funds appropriated for this item under section 10207, subsection 11.

C. Municipal officers shall submit documentation demonstrating the amount of money appropriated for private school student services for the base year.

D. The commissioner may adopt or amend rules to assure that:

(1) All sums reimbursed were utilized and actually expended for programs authorized pursuant to Title 30, section 5104, subsections 5 through 8;

(2) No municipality receives reimbursement for a student who attends private school at public expense; and

(3) All services provided to private school students that require professional personnel are provided by public employees.

7. Direct special education payments. The commissioner may make tuition and board payments directly to private special education boarding schools which receive state wards or other pupils placed directly by the State.

8. Education of institutional residents. The commissioner may pay tuition to school administrative units for institutional residents and within the limits of the appropriation made under section 10207, subsection 12.

9. Appeals. A school board may appeal the computation of state allocation for the school administrative unit to the state board in writing within 30 days of the date of notification of the computed amount. The state board shall review the appeal and make an adjustment if, in its judgment, an adjustment is justified. The state board's decision shall be final as to facts supported by the record of the appeal.

10. School purpose expense requirement. Notwithstanding any other public or private statute, money allocated for school purposes shall be expended only for school purposes.

11. Balance of allocations. Notwithstanding any other public or private statute, balances of allocations at the end of a school administrative unit's fiscal year shall be carried forward to meet the next year's school needs.

#### § 10211. Local allocation and appropriations

1. Local allocation computation; recorded vote; limit. The following provisions apply to local allocation computation, recorded vote and limitation.

A. The commissioner shall compute the local allocation using the subsidy index established under section 10207, subsection 4, and the state valuation of the municipalities within each school administrative unit.

B. The legislative body of each school administrative unit may vote to raise and appropriate an amount up to the local allocation. This action shall be taken by a recorded vote.

C. The commissioner's computation of the local allocation for each school administrative unit shall not exceed the state-local allocation as adjusted by section 10209 for that unit.

Beginning July 1, 1981, the commissioner's computation of the local allocation for each single school administrative unit or for each member municipality within a school administrative district or community school district shall not exceed the state-local allocation.

The member municipality's share of a district's state-local allocation shall, for the purpose of this paragraph, be determined on the basis of the average number of resident pupils in the calendar year prior to the year of allocation.

D. The provisions of subsection 2 shall not apply to a school administrative unit whose local allocation is equal to or greater than its state-local allocation, but that unit shall report to the commissioner the amount of the appropriation for the state-local allocation.

2. Local appropriation of state-local allocation. An article in substantially the following form shall be used when a school administrative unit is considering the appropriation of the state-local allocation:

"Article : To see what sum the municipalities/district will appropriate from the state-local allocation for school purposes (Recommended \$ ) and to see what sum the municipality/district will raise as the local share (Recommended \$ )."

3. Local leeway. The following provisions apply to local leeway.

A. The legislative body of a school administrative unit may, in addition to that unit's state-local allocation, authorize an additional expenditure for elementary or secondary pupils, or both, not to exceed a local appropriation for each municipality of 1.2 mills on the state valuation in effect on July 1st or \$125 per pupil, whichever is less, for the 1980-81 year of distribution. A school administrative unit may not participate in local leeway unless it has raised the minimum amount of its local allocation, as computed by the commissioner under subsection 1, paragraph A or as provided under subsection 1, paragraph D.

B. A school administrative unit may appropriate local leeway funds no later than 90 days following the final adoption of the school budget. A school administrative unit may file a request for a waiver of this requirement with the state board. If a school administrative unit demonstrates to the satisfaction of

the state board that unusual circumstances require additional local leeway appropriations to avoid serious educational hardship in that unit, the state board may grant that unit a waiver and authorize these additional appropriations.

C. The local appropriations shall be divided equally over a 12-month period.

D. The funds appropriated under this subsection shall be called "local leeway."

(1) The purpose of local leeway appropriations shall be to provide that all school administrative units may raise and appropriate at least the amount per pupil established at the computed mill rate for that year to supplement the adjusted allocation when necessary in the judgment of the unit.

(2) The amount appropriated by the Legislature under section 10207, subsection 6, shall be the maximum state obligation under this subsection.

E. If the local leeway authorization by a school administrative unit exceeds the maximum levy for a municipality within that unit, the commissioner shall add to the allocation of the unit for its fiscal year a sum which equals the excess over the maximum levy of the municipality within the unit.

F. A school administrative unit may establish an "accounts receivable" in anticipation of state aid under this subsection when the fiscal year closes on June 30th.

G. If the local leeway appropriation fails to produce the amount per pupil established at the computed mill rate for that year under this subsection, the commissioner shall add to the allocation of the school administrative unit for its fiscal year a sum which, when combined with the local leeway appropriation, shall equal the amount per pupil established at the computed mill rate for that year. This sum shall be paid annually to the unit no later than December 31st for the previous 12-month period.

H. If a school administrative unit raises less than the local leeway maximum, the levy on a municipality within the school administrative unit shall be in the same proportion as the municipality's share is to the total when the maximum amount allowed is raised.

I. If a school administrative unit raises less than the local leeway maximum, the State shall pay its share in the same proportion to the maximum state share that the amount raised locally is to the maximum local share.

J. An article in substantially the following form shall be used when a municipality, School Administrative District or community school district is considering the appropriation of local leeway funds:

"Article : To see what sum the municipality or district shall appropriate from local leeway for school purposes (Recommended total \$ , local

share \$ , state share \$ ), and to see if the municipality or district shall raise the local share of \$ .”

K. The provisions of paragraph I shall not apply to a school administrative unit whose local allocation is equal to or greater than its state-local allocation, that unit shall report to the commissioner the amount of the appropriation for local leeway.

#### **§ 10212. Local funds without state participation**

1. **Authorization.** A school administrative unit may raise and expend funds for educational purposes in addition to the funds available under sections 10208 through 10211.

2. **Calculation of operating costs.** For the purposes of this chapter, moneys raised under subsection 1 shall be included in any future calculation of the school administrative unit's elementary and secondary per pupil operating costs, but shall not be included in any future calculations of the state average or total operating costs.

3. **Administrative costs for units with no pupils.** If a school administrative unit is required to pay administrative costs and has no allocation of state and local funds, that unit may raise and expend funds for administrative costs.

#### **§ 10213. Municipal assessment paid to district**

1. **Presentation of assessment schedule.** The assessment schedule based on the budget approved at a community school district or school administrative district budget meeting shall be presented to the treasurer of each municipality which is a member of the district.

The assessment schedule shall include each member municipality's share of the district's local allocation, local leeway and local appropriation without state participation.

2. **Municipal treasurer's payment schedule.** The treasurer of the member municipality, after being presented with the assessment schedule, shall forward 1/12 of that member municipality's share to the treasurer of the district on or before the 20th day of each month of the fiscal year beginning in July.

#### **§ 10214. Special school districts**

1. **School administrative unit.** For the purposes of section 10217 and Title 20, sections 3457 to 3460, a special school district shall be deemed to be a school administrative unit.

2. **Debt service.** Debt service on bonds or notes issued by a special school district shall be included in the school budget of the school administrative unit which operates the schools constructed by that district.

The school board for the school administrative unit which operates the special district's schools shall pay to the special school district all sums necessary to

meet the payments of principal and interest on bonds or notes when due and to cover maintenance or other costs for which the special school district is responsible.

**§ 10215. School budget; budget formats**

**1. Content.** A school administrative unit shall include in its school budget document;

**A.** Its state-local allocation, its local leeway and any additional expenditures authorized by statute; and

**B.** A summary of anticipated revenues and estimated school expenditures for the fiscal year.

**2. Budget deadlines.** The following time limitations shall apply to adoption of a budget.

**A.** At least 7 days before the initial meeting of the legislative body responsible for adopting a budget, a detailed budget document shall be available to that legislative body and to any person residing within the geographic area served by the school administrative unit.

**B.** Notwithstanding a provision of statute or charter to the contrary, school administrative units may adopt an annual budget prior to June 30th, except that the school budgets for vocational regions shall be adopted on or before August 31st.

**3. Budget format.** The following provisions shall apply to a budget format.

**A.** Except as provided in subsection 4, the budget format shall be that prescribed by the school board until an article prescribing the school budget format is approved by a majority of voters in an election in which the total vote is at least 20% of the number of votes cast in the municipality in the last gubernatorial election, or 200, whichever is less.

**B.** The format of the school budget may be determined in accordance with section 1506.

**C.** It is the intent of the Legislature that a school board shall attempt to obtain public participation in the development of the school budget.

**4. Budget format; town or city charter.** In a municipality where the responsibility for final adoption of the school budget is vested by municipal charter in a council, the school budget format may be changed through amendment of the charter under the home rule procedures of Title 30, sections 1911 to 1920, except that the amendment shall be approved by a majority of voters in an election in which the total vote is at least 20% of the number of votes cast in the municipality in the last gubernatorial election.

**5. Budget format; town meeting.** Where the final budget authority is vested



in a town meeting operating under the general enabling procedures of Title 30, the format of the school budget may be determined by the town meeting or under the procedures of Title 30, section 2053 or 2061.

**6. Budget format; community school district.** The following provisions shall apply to the budget format of a community school district.

**A.** An article containing the district's proposed budget format shall be placed on the next warrant issued or ballot printed if:

(1) The district school committee votes to place it on the warrant or ballot; or

(2) A written petition of at least 10% of the number of voters voting in the last gubernatorial election in each municipality within the community school district requests it to be on the warrant or ballot.

**B.** The article containing the budget format may be voted on by secret ballot at an election conducted in accordance with Title 30, sections 2061 to 2065.

**C.** The district school committee shall:

(1) Issue a warrant ordering the municipal officers of the municipalities within the community school district to place the budget format article on the secret ballot; and

(2) Prepare and furnish the required number of ballots for carrying out the election, including absentee ballots.

**7. Budget format; chapter 605 articles.** The articles prescribed in this chapter shall be included in the budget format and voted on in the adoption of the budget in order to determine state and local cost sharing.

**8. Change in budget format.** A change in the budget format shall be voted on at least 90 days prior to the budget year for which that change is to be effective.

#### **§ 10216. Actions on budget**

The following provisions shall apply to approving a budget.

**1. Checklist required.** Prior to the articles dealing with school appropriations being voted on, the moderator of a regular or special school budget meeting shall require the clerk or secretary to make a checklist of the registered voters present. The number of voters listed on the checklist shall be conclusive evidence of the number present at the meeting.

**2. Reconsideration.** Notwithstanding another statute to the contrary, in school administrative units where the school budget is finally approved by the voters, a special budget meeting to reconsider action taken on the budget may only be called as follows.

**A.** It shall be held within 30 days of the regular budget meeting.

**B. In a school administrative district or community school district, it shall be called by the school board, or as follows:**

(1) At least 10% of the number of voters voting in the last gubernatorial election in member municipalities of the school administrative unit, or 100 voters, whichever is less, shall present a signed petition within 15 days of the regular budget meeting to the school board, specifying the articles to be reconsidered; and

(2) On receiving the petition, the school board shall call the special reconsideration budget meeting to be held within 15 days of the date the petition was received.

**C. It shall be called by the municipal officers in a municipality:**

(1) Within 15 days after receipt of a request from the school board, if the request is received within 15 days of the budget meeting and it specifies the articles to be reconsidered; or

(2) Within 15 days after receipt of a petition presented in accordance with Title 30, section 2065, if the petition is received within 15 days of the budget meeting and it specifies the articles to be reconsidered.

**3. Invalidation of action of a special reconsideration budget meeting.** If a special budget meeting is called to reconsider action taken at a regular budget meeting, the actions of the meeting shall be invalid if the number of voters at the special budget meeting is less than the number of voters at the regular budget meeting.

**4. Line item transfers.** Meetings requested by a school board for the purpose of transferring funds from one category or line item to another shall be posted for voter or council action within 15 days of the date of the request.

**§ 10217. Bonds; notes; other**

All bonds, notes or other evidences of indebtedness issued for school purposes by a school administrative unit, as defined in section 10001, for major capital expenses or for current operating expenses, including tax or other revenue anticipation notes, shall be general obligations of the unit.

**1. Tax assessments.** The municipal officers or school board shall require the sums which may be necessary to meet in full the principal of and interest on these bonds, notes or other evidences of indebtedness payable in each year to be assessed and collected in the manner provided by law for the assessment and collection of taxes.

**2. Reduction.** The sums to be assessed and collected shall be reduced by the amount of an allocation of funds appropriated by the Legislature to pay the principal and interest owed by the unit in a given year as certified to the school administrative unit by the commissioner. The commissioner shall certify the amount due to the unit within 30 days of its appropriation by the Legislature.

3. Collection. After assessment and reduction, the remaining sum shall be payable from ad valorem taxes which may be levied without limit as to rate or amount upon all the taxable property within the unit.

**§ 10218. Compliance with federal and state laws and regulations**

1. Commissioner's duty. The commissioner shall assure that federal or state funds distributed to a school administrative unit are spent in compliance with:

A. Provisions of federal laws and regulations, United States Code, Title 31, Section 1242, as amended, and the Code of Federal Regulations, Title 31, Part 51, subpart B, chapter 1;

B. Title 9 of the Education Amendments of 1972, 20 United States Code, Section 1681 et seq., and the Code of Federal Regulations, Title 45, Part 86;

C. Title 6 of the United States Civil Rights Act of 1964, Title 42 of the United States Code 2000d and the Code of Federal Regulations, Title 45, Part 80;

D. Title 5, chapter 337, Human Rights Act and the rules adopted or amended under Title 5, sections 4551 to 4631; and

E. Title 5, sections 781 to 790, Code of Fair Practices and Affirmative Action.

2. Assistance. On request of the commissioner, the Human Rights Commission and the Department of the Attorney General shall assist the department in meeting its obligation to respond to complaints raised under this section.

**CHAPTER 607**

**MAINE SCHOOL BUILDING AUTHORITY**

**§ 10301. Short title**

This chapter may be known and may be cited as the "Maine School Building Authority Act."

**§ 10302. Purpose**

The purpose of the "Maine School Building Authority," shall be to promote the diffusion of the advantages of education, which is essential to the preservation of the rights and liberties of the people, and to aid in the provision of public school buildings in the State.

**§ 10303. Definitions**

As used in this chapter, unless the contents indicate otherwise, the following terms have the following meanings.

1. Authority. "Authority" means the Maine School Building Authority.

2. Cost. "Cost" as applied to a project includes:

A. The cost of construction or acquisition;

B. The cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired by the authority for the construction or acquisition;

C. The cost of demolition or removing buildings or structures on acquired lands, including the cost of acquiring lands to which the buildings or structures may be moved;

D. The cost of furnishings and equipment, financing charges, insurance, interest prior to and during construction and for up to one year after completion of construction;

E. The cost of architectural and legal expenses, plans, specifications, estimates of cost, administrative expense and other expenses necessary or incidental to the construction or acquisition;

F. The financing of the construction or acquisition and the placing of the project in operation; or

G. Any other obligation or expense incurred in connection with the construction or acquisition of a project.

3. Project or school construction project. "Project" or "school construction project" means a public school building or an extension or enlargement of a building, including land, furniture and equipment for use as a public school, together with the property rights, easements and interests which may be acquired by the authority for the construction or the operation of that building.

4. School building. "School building" means a structure used or useful for schools and playgrounds, including facilities for physical education.

#### § 10304. Organization

1. Establishment. The Maine School Building Authority shall be a public instrumentality of the State. The exercise by the authority of the powers conferred by this chapter shall be the performance of essential governmental functions.

2. Membership. The authority shall consist of:

A. Nine members of the state board;

B. The Treasurer of State or his deputy, ex officio, as a nonvoting member; and

C. The commissioner.

3. Administration. The commissioner shall be chairman of the authority. The authority shall elect one of its members as a vice-chairman, and shall also elect a secretary and treasurer who need not be a member of the authority, to serve at the pleasure of the authority. The secretary and treasurer shall be bonded as the authority shall direct.

**4. Quorum.** Six members of the authority shall constitute a quorum and the affirmative vote of 5 members shall be necessary for an action. A vacancy in the membership may not impair the right of the quorum to exercise all rights and perform all the duties of the authority.

**5. Expenses.** Members of the authority shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

**§ 10305. Powers**

The authority may:

**1. Bylaws.** Adopt bylaws for the regulation of its affairs and the conduct of its business;

**2. Seal.** Adopt or alter an official seal;

**3. Office.** Maintain an office;

**4. Sue and be sued.** Sue and be sued in its own name. Civil actions against the authority shall be brought only in the county in which the principal office of the authority shall be located;

**5. Construct, repair or alter school projects.** Construct or acquire, extend, enlarge, repair or improve school projects, if:

**A.** The board of directors of a school administrative district has certified the need for the facilities to the authority;

**B.** The school board of a municipal school administrative unit has certified the need for the facilities to the municipal officers of the unit, together with their recommendations for school construction and these recommendations have been approved by the municipal officers and state board; or

**C.** The district school committee of a community school district has certified the need for these facilities to the board of trustees of the community school district, together with the recommendations for school construction and these recommendations have been approved by the district board of trustees and the state board;

**6. Revenue bonds.** Issue revenue bonds of the authority for its corporate purposes, payable, except as provided in this chapter, solely from the rentals and revenues pledged for their payment; and to:

**A.** Refund its bonds; and

**B.** Secure a bond issued by a trust agreement by and between the authority and a corporate trustee. A trustee may be a trust company or bank having the powers of a trust company within or without the State;

**7. Temporary loans.** Make temporary loans to finance individual projects until the authority issues revenue bonds;

8. **Rentals and charges.** Fix, alter, charge and collect rentals and other charges at reasonable rates for the use of school projects. These rates shall be determined by the authority to fund:

- A. The expenses of the authority;
- B. The improvement, repair and maintenance of these projects;
- C. The payment of the principal of and the interest on its revenue bonds; and
- D. To fulfill the terms and provisions of agreements made with the purchasers or holders of these bonds;

9. **Acquire and dispose of property.** Acquire, hold and dispose of real and personal property;

10. **Acquire land; eminent domain.** Acquire in the name of the authority, by purchase or otherwise, on the terms and conditions and in the manner it deems proper, or by the exercise of the power of eminent domain, land or property rights. Using eminent domain, the authority may not take more than 25 acres for one project. In using eminent domain, the authority shall be governed by Title 35, chapter 263;

11. **Contracts, leases and agreements.** Make and enter into contracts, leases and agreements necessary or incidental to the performance of its duties;

12. **Utilize services of other departments.** Utilize the services of agencies and departments of the State whenever feasible;

13. **Employees.** Employee other persons and agents, and fix their compensation;

14. **Supplement lease agreements.** As funds are appropriated, make a grant to a school administrative unit if the borrowing capacity of the unit, the lease or rental policies of the authority, and other available funds are not sufficient to finance the minimum classroom facilities needed.

A. The authority shall adopt or amend rules to determine eligibility for these grants. The authority's determination of eligibility shall become final on approval of the Governor.

B. The grant of state appropriated funds shall be considered as matching funds for a federal law requiring matching funds for school construction assistance.

C. The authority may make an additional grant to units extending school opportunities to children living in unorganized territory by adding to the grant the percentage determined by dividing the number of pupils enrolled in the unit from unorganized territory on the preceding April 1st by the total unit enrollment reported in the latest annual report required under section 3203.

D. It is the intent of the Legislature that grants under this subsection shall be made only as supplementary financial aid to those units which cannot finance

minimum needed classroom facilities within the maximum loan limit policy of the authority. Grants may not be considered as a precedent for granting general major or minor capital costs funds for school construction; and

15. Other acts. Do all acts necessary or convenient to carry out the powers expressly granted in this chapter.

**§ 10306. Contracts**

1. Authorization. The authority may authorize a school administrative unit to design and construct a project, and to acquire the necessary land, furnishings and equipment for it. This authorization shall be subject to the supervision and approval of the authority.

A. A school administrative unit may convey to the authority property rights, easements and other interests, which may be necessary or convenient for the construction and operation of project on the terms agreed on between the authority and the unit.

B. A school administrative unit, notwithstanding the prior creation of a special school district coterminous with that unit, may contract with the authority for the lease or use of a project for a period and for consideration and on terms and conditions as agreed on between the unit and the authority. Rentals or other charges provided by these contracts to be paid for the lease or use of a project shall be current operating expenses of the unit, but shall be excluded in the computation for state school subsidy.

2. Approval. A contract, lease or agreement between a school administrative unit and the authority may not be valid unless first approved by the vote of a majority of:

A. The residents of a municipality voting on this question;

B. In a community school district, the residents of each municipality within the district; or

C. The residents of a school administrative district in the manner provided in sections 1551 to 1554.

3. Delinquency. If a school administrative unit is delinquent in its payments to the authority, the department shall make payment to the authority in lieu of the unit from amounts properly payable to that unit by the department. This payment shall not exceed the amount then presently due to the authority from the unit. If the amounts properly payable to a community school district are less than the amount then presently due to the authority, the department shall pay the balance to the authority from the amounts properly payable to the participating municipalities in the district. The amount withheld from each of the municipalities shall be proportional to the balance of that municipality's state valuation divided by the total state valuation of all of the municipalities within the district.

4. **Delays.** Notwithstanding any other law, a delay in the actual completion of a project beyond the date as estimated by the authority, or any damage to or destruction of the whole or a portion of the project may not operate to relieve the school administrative unit of its obligation to pay the rentals and other charges as provided in the contract, lease or agreement.

5. **Confirmed agreements.** A contract, lease or agreement entered into in accordance with this section shall be ratified and confirmed.

**§ 10307. Revenue bonds**

The authority may provide by resolution for the issuance of revenue bonds. These bonds may not exceed \$25,000,000 outstanding at one time.

1. **Payment of principal and interest.** Except as provided in this chapter, the principal and interest on those bonds shall be payable solely from the funds provided for this payment.

2. **Dates; redemption.** The bonds of each issue:

A. Shall be dated;

B. Shall bear interest at rates determined by the authority;

C. Shall mature at a date not to exceed 40 years from their date of issue; and

D. May be made redeemable before maturity, at the option of the authority, at a price and under terms established by the authority prior to their issuance.

3. **Form.** The authority may determine the form of the bonds, including interest coupons to be attached, the denomination of the bonds, and the places of payment of principal and interest. The authority may designate a bank or trust company within or without the State for these payments. The bonds and attached coupons shall be signed by the chairman of the authority or shall bear his facsimile signature. The official seal of the authority shall be impressed on the bonds and attested by the secretary and treasurer. If any officer whose signature or a facsimile of whose signature appears on bonds or coupons shall cease to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes.

4. **Bonds are negotiable instruments.** The authority's bonds shall have all the qualities and incidents of negotiable instruments under Title 11, sections 1-101 to 10-108. Bonds may be issued in coupon or in registered form, or both. Provision may be made for the registration of coupon bonds as to principal or as to both principal and interest, and for the reconversion into coupon bonds or bonds registered as to both principal and interest.

5. **Bond sales.** The authority may sell bonds either at public or at private sale. It may determine the sale price of bonds.

6. **Proceeds of bonds.** The proceeds of the bonds shall be used solely for the payment of the cost of projects.



A. The authority shall determine the manner of disbursement of the proceeds. The authority may restrict the disbursement by authorizing resolution or by trust agreement securing the issuance of bonds.

B. The authority may, under similar restrictions, issue interim receipts, notes or temporary bonds prior to the preparation of definitive bonds with or without coupons. These interim notes may be exchangeable for definitive bonds when these bonds are available for delivery.

C. The authority may provide for the replacement of bonds which become mutilated, destroyed or lost.

D. Bonds may be issued without obtaining the consent of any agency of the State, and without any other proceedings or conditions, except as specifically required by this chapter.

#### § 10308. State credit

Except as provided in this section, issued revenue bonds may not be deemed to constitute a debt or pledge of credit of the State. The bonds shall be payable solely from the funds provided for payment, and a statement to that effect shall be placed on the face of the bonds.

1. Exceptions. The authority, acting on behalf of the State, may insure the payment of its revenue bonds. To this end, the faith and credit of the State shall be pledged, consistent with the terms and limitations of the Constitution of Maine, Article IX, section 14-C. The authority shall, in the resolution authorizing the issuance of these revenue bonds, provide that the payment of these revenue bonds shall be insured by the State. On the adoption of the resolution, the payment of these revenue bonds shall be deemed to have been insured by the State and the faith and credit of the State to have been pledged to that payment. The insurance shall take effect without obtaining the consent of any agency of the State, and without any other proceedings or conditions except as specifically required by this chapter.

2. State payments. If moneys are required to pay the revenue bonds so insured, the authority shall, in writing, request the Governor to provide necessary funds. The Governor shall transfer sufficient moneys to the authority from the State Contingent Account or from the proceeds of bonds. If bonds are to be issued for that payment, the Governor shall order the Treasurer of State to issue bonds in the amount requested subject to the following conditions.

A. The aggregate of the bonds may not exceed the amount set forth in the Constitution of Maine, Article IX, section 14-C.

B. The bonds shall mature at a time not to exceed 20 years from the date of issue.

C. The Governor shall determine the interest rates and terms for the issue of the bonds.

**D. The bonds shall constitute a pledge of the faith and credit of the State.**

**§ 10309. Trust funds**

Notwithstanding any other law, all moneys received under this chapter whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the bonds or trust agreement securing these bonds shall provide that a person with which these moneys are deposited shall act as a trustee of the moneys, and shall hold and apply the money for the purposes and subject to the conditions of this chapter.

**§ 10310. Revenue refunding bonds**

**1. Authorization.** The authority may provide by resolution for the issuance of revenue refunding bonds for:

**A. Refunding bonds then outstanding which shall have been issued under this chapter, including the payment of a redemption premium or accrued interest; or**

**B. Constructing enlargements, extensions or improvements by the original project.**

**2. Conditions.** The issuance of these bonds, their maturities and other details, the rights of the holders and the rights, duties and obligations of the authority shall be governed by this chapter, insofar as they may be applicable.

**3. Insurance.** The provisions of section 10308 shall apply to these revenue refunding bonds.

**§ 10311. Transfer**

When bonds have been paid, or a sufficient amount for the payment of the bonds and the interest has been set aside in trust for the benefit of the bondholders, the project shall be conveyed by the authority to the lessee school administrative unit.

**§ 10312. Investment**

Revenue bonds and revenue refunding bonds shall be securities in which public officers and public bodies of the State and its political subdivisions, insurance companies, trust companies and their commercial departments, banking associations, investment companies, savings banks, executors, trustees and other fiduciaries and other persons who are now or may be authorized to invest in bonds or other obligations of a similar nature, may properly and legally invest funds, including pension and retirement funds or capital under their control or belonging to them. The bonds shall be securities which may properly and legally be deposited with and received by a state or municipal officer or an agency or political subdivision of the State for a purpose for which the deposit of bonds may be authorized by law.

**§ 10313. Other bonding authority**

**This chapter shall not be regarded as in derogation of any power now existing. The issuance of bonds need not comply with the requirements of other laws applicable to the issuance of bonds.**

**§ 10314. Remedies**

**A holder of bonds or coupons and the trustee under a trust agreement, except to the extent the rights may be restricted by that trust agreement, may, by civil action, protect and enforce all his applicable rights and may enforce and compel the performance of all duties required by this chapter.**

**§ 10315. Preliminary expenses**

**A school board may, with the approval of the authority, expend out of funds available for the purpose, moneys necessary for preliminary expenses including architectural and other services. Expenses incurred by the school board prior to the issuance of revenue bonds shall be paid by the board and charged to the appropriate project. The school board shall keep proper records of accounts showing each amount charged. On the issuance of revenue bonds for the project, the funds expended by the school board for the project shall be reimbursed from the proceeds of the bonds.**

**§ 10316. Direct payment**

**The commissioner may pay to the authority funds due to a school administrative unit as part of its state allocation as follows.**

**1. Application. If a school administrative unit is obligated to make payments to the authority on December 1st, its school board may apply in writing to the commissioner setting forth:**

- A. The amount due;**
- B. The date due;**
- C. The name of the trustee of the authority who shall receive the payment; and**
- D. Their statement that they desire that the amount specified be paid directly to the designated trustee from moneys apportioned to the unit.**

**If the commissioner and the Treasurer of State approve the request, the specified amount shall be paid directly to the designated trustee prior to the due date. It shall also be deducted from the amount due to the school administrative unit from the State.**

**§ 10317. Exemption from taxation**

**As the exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the State and for the improvement of their educational facilities, and as projects constructed under this chapter constitute public property, the authority may not be required to pay taxes or assessments on its property, a project or on income from property or projects. Bonds issued under**

this chapter, their transfer and their income, including profit made on their sale, shall at all times be free from taxation within the State.

**§ 10318. Liberal construction**

This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect its purposes.

**CHAPTER 608**

**SCHOOL CONSTRUCTION**

**§ 10401. Definitions**

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

1. **Concept approval.** "Concept approval" means the initial approval of a school construction project by the state board which indicates:

- A. Acknowledgment of the local need;
- B. Approval of the preliminary design;
- C. Approval of estimated costs; and
- D. The state board's intent to issue final approval subject to a favorable local vote and approval of final cost estimates.

2. **Maintenance of plant.** "Maintenance of plant" means those activities concerned with keeping the grounds, buildings and equipment at their original condition of completeness or efficiency either through repairs or by replacement of property.

3. **Major capital costs.** "Major capital costs" means the cost for equipment approved under a school construction project.

4. **School construction project.** "School construction project" means:

- A. On-site additions to existing schools;
- B. New schools;
- C. The cost of land acquisition;
- D. The building of or acquisition of other facilities related to the operation of school administrative units; and
- E. Major renovations of existing schools, which in the judgment of the commissioner are more feasible than new construction.

The commissioner may include in this term off-site construction if it is economically in the best interests of the State or there is no other practical way to complete a project.

5. **Total cost of school construction projects.** "Total costs of school construction projects" means all costs related to or incidental to the project, except financing costs.

**§ 10402. Administrative units**

1. **Building committee.** The legislative body of a school administrative unit may at a regular or special meeting establish a special building committee. If the legislative body does not establish a special building committee, then the school board shall act as the building committee and may delegate the powers and duties of the building committee to the superintendent.

2. **School board approval.** A plan for a school construction project voted for by a school administrative unit shall be approved by the school board.

3. **Authority to sell bonds.** A school administrative unit may sell bonds to raise the local share of project costs.

4. **Final report to commissioner.** On the completion of a school construction project, the building committee shall certify to the commissioner that the construction project has been completed in conformity with the approved plans and specifications.

**§ 10403. Approval of plans and specifications**

1. **Application.** A school construction project or the minor capital costs of a project with an estimated cost of more than \$25,000 shall meet the requirements of this section.

2. **Requirements.** The plans and specifications shall contain suitable provision for the health, welfare and safety of persons who will utilize the project.

3. **Approval.** Before acceptance by a school board, the plans and specifications shall be approved by the following:

- A. The Department of Finance and Administration;
- B. The Bureau of Public Improvements;
- C. The department;
- D. The Department of Human Services; and
- E. The State Fire Marshal.

4. **Changes.** Changes in the plans and specifications shall be approved by the department.

5. **Inspection and compliance.** If it appears to the commissioner that the school construction project has not been completed in conformity with the approved plans and specifications, he may cause an inspection of the project to be made. He shall notify the building committee of his findings and of any changes required. The building committee shall make the changes within a reasonable

period of time. Failure to do so shall render the school administrative unit liable to the penalties provided in section 163.

**§ 10404. Local vote**

Prior to final approval by the state board, a school construction project must receive a favorable vote conducted in accordance with the following.

1. **Councils.** In a municipality where the responsibility for final adoption of the school budget is vested in a municipal council by municipal charter or in a town meeting, the vote shall be conducted in accordance with the appropriate provisions set forth in Title 21 and Title 30.

2. **School administrative districts.** In a school administrative district or vocational region the vote shall be conducted in accordance with sections 1551 to 1554.

3. **Community school districts.** In a community school district, the vote shall be conducted in accordance with Title 30, sections 2061 to 2065. The district school committee shall:

A. Issue a warrant ordering the municipalities within the district to place the school construction article on the ballot; and

B. Prepare and furnish the required number of ballots for carrying out the vote.

4. **Form.** The article shall indicate:

A. That the initial local share of the total cost of the project shall be 5% of the total cost or one mill multiplied by the school administrative unit's state valuation, whichever is less;

B. The actual initial local share;

C. That the entire additional operating costs of the new project during its first 2 years shall be borne by revenues raised by the school administrative unit;

D. The estimated amount of the additional operating costs during each of the first 2 years; and

E. The rate of the reimbursement from state General Fund revenue sources for debt service costs in the year in which the project received concept approval.

**§ 10405. State board**

1. **Approval authority.** The state board must approve a school construction project.

A. The state board may approve projects as long as no project approval will cause debt service costs, as defined in section 10203, subsection 10, paragraph A, to exceed \$30,000,000 in a subsequent fiscal year.

**B. Nonstate funded projects, such as school construction projects or portions of projects financed by proceeds from insured losses, money from federal sources, other noneducational funds or local funds which shall not be reimbursed by the State, shall be outside the total cost limitations set by the Legislature.**

**2. Secondary school construction project limitations.** The state board may approve a secondary school construction project designed to accommodate fewer than 300 pupils only if the state board has determined that the school will have an adequate educational program. The board may not approve a secondary school construction project if fewer than 10 full-time teachers will be employed at the school, unless the location of the school would be geographically isolated.

**3. Certificate of approval.** A certificate of approval shall be issued for each project approved by the state board. The certificate shall bear the amount of state aid and other stipulations or conditions. The certificate shall be signed by the commissioner and shall be conclusive evidence of the facts stated on it.

**4. Rules.** The state board may adopt or amend rules relating to the approval of school construction projects.

#### **§ 10406. Payments**

**1. Payment of state's share.** The State shall pay its share of project costs to a school administrative unit according to the unit's debt retirement schedule.

**2. Payment of local share.** A school administrative unit shall pay the local share of their project costs.

**3. Local funds nonreimbursable.** Notwithstanding any other law, the initial local share of school construction projects shall not be considered education costs for purposes of reimbursement under chapter 605. Expenditures for the state and local share of school construction projects, including gifts, shall be outside a limit on expenditures by local units under chapter 605.

**4. Maintenance costs.** Maintenance of plant and minor remodeling shall be the responsibility of the school administrative unit with state financial participation in activities considered operating costs under chapter 605.

#### **§ 10407. Design limits**

**1. Technical assistance.** In order to provide the technical assistance required by the state board in assessing proposed school construction projects, the Bureau of Public Improvements may contract for the services of a professional engineer whenever the bureau is not employing qualified personnel on a full-time basis.

**2. Energy conservation standards.** The state board shall approve only those projects which have been designed in accordance with rigorous standards for the conservation of energy.

**3. Life-cycle costs.** The department and the Bureau of Public Improvements

may not approve the plans and specifications of a project which does not meet the requirements of Title 5, chapter 153, subchapter I-A.

**§ 10408. Financing**

1. **Rate of construction aid.** A school administrative unit's initial share of the total cost of a project shall be either 5% of the total cost or the equivalent of one mill multiplied by the unit's initial state valuation, whichever is less.

A. The one mill shall be calculated on the state valuation in effect at the time the project is first approved by the state board.

B. The unit's initial share shall be applied to the project costs during the period of construction.

C. The unit's initial share may be derived from local appropriations or gifts.

D. The unit's initial share shall not be considered an educational cost for purposes of subsidy reimbursement under chapter 605.

2. **Bonds.** A school administrative unit shall sell bonds in its name in the amount of the state's share. Bond sales shall be consistent with rules adopted or amended by the state board.

A. The amount to be bonded shall be determined as follows. The total cost of the project shall be reduced by:

(1) The local share;

(2) Proceeds from insured losses;

(3) Money from federal sources; and

(4) Other noneducational funds, except gifts and moneys from federal revenue sharing sources.

B. A school administrative unit may borrow money for projects in anticipation of bond sales. Borrowing shall be consistent with rules adopted or amended by the state board.

C. The State shall pay its share of project costs to a school administrative unit as the bonds become due.

2. **Deductions; cost of project.** Proceeds from insured losses, money from federal sources and other noneducational funds shall be deducted from the total cost of the project to determine the amount on which the state's share shall be calculated. Proceeds from gifts or moneys from federal revenue sharing sources shall be treated as local appropriations.

**§ 10409. Requirements**

The following requirements shall apply to a school construction project.

1. **Applications.** An application for approval of a project shall include the information required by the state board.



**2. Reports.** A school administrative unit shall file:

- A.** A copy of the debt retirement schedule with the commissioner as soon as bonds are sold; and
- B.** A final report on a project to include any information the commissioner may require. This report shall be made within the time specified by rule by the commissioner.

**3. Penalty.** Failure to submit accurate reports within specified times shall be deemed sufficient cause for withholding school construction aid until the school administrative unit complies.

**4. Time of signing.** A school administrative unit may not sign a contract for construction or begin construction until the final plans and specifications have been approved by the commissioner, the Bureau of Public Improvements, the Department of Human Services and the State Fire Marshal.

**§ 10410. Community services; conditions of approval**

The state board may approve construction of school buildings without obligating the State to pay a share of the costs of those buildings, if those portions are to be constructed to fulfill a community service need.

**1. Community service.** "Community service" means a service which does not fulfill an educational purpose or which is not restricted to a school-age population.

**2. Breakdown of costs.** If construction of facilities to meet a community service need occurs in conjunction with a school construction project, the board shall:

- A.** Require a breakdown of costs for the entire project; and
- B.** Approve a plan as to how operating costs, including repairs, shall be shared by agreement between the municipal officers and the school board.

**3. Findings.** The state board's finding shall become a part of the certificate of approval and shall be the basis on which all costs shall be apportioned between the municipality and the school administrative unit for as long as that portion of the project shall:

- A.** Continue to serve that community need; and
- B.** Remain under the control of persons other than the school board.

**4. Application.** An application from a school administrative unit for approval of a school construction project shall include evidence that approval will result in meeting or helping to meet the total construction and program needs of the area to be served.

**§ 10411. Inspection of facility; compliance**

If it appears to the commissioner that a school administrative unit has failed to maintain a school facility which protects the health, welfare and safety of the persons utilizing the facility, he may cause an inspection to be made. He shall notify the school administrative unit of his findings and of any changes to be made. The school administrative unit shall make the changes promptly. If it fails to make the changes, it shall be liable to the penalties provided in section 163.

**§ 10412. School bus shelters**

1. **Placement.** School bus shelters for school children, when approved by the school board of the unit in which they are located, may be placed or maintained outside the right-of-way and at least 33 feet from the center line of a highway.

2. **Requirement.** A shelter shall be:

A. Constructed of steel or other durable material with concrete floor raised above ground level;

B. Kept clean, well painted or otherwise suitably maintained at all times; and

C. Kept free from snow.

3. **Removal.** The school board may order its removal if it does not meet these requirements.

**Sec. 3. Transition.** The following provisions shall apply to the transition from the Revised Statutes, Title 20 to Title 20-A.

1. **Definition.** For the purposes of this section:

A. "Management board" means a school board, advisory committee, cooperative committee, joint committee or other governing body of a school unit; and

B. "School unit" means a school administrative unit, vocational region, school union, union school and vocational technical institutes.

2. **Personnel.** This Act shall have no effect on the terms or appointment of an employee of the department, of a school unit or management board operating under this Title.

3. **Funds and equipment transferred in department.** Notwithstanding the provisions of the Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in an account or subdivision of an account of the Department of Educational and Cultural Services shall be transferred to the proper place under this Act by the State Controller on the request of the Commissioner of Educational and Cultural Services and the State Budget Officer, and with the approval of the Governor.

4. **Funds and equipment transferred in school unit.** Notwithstanding the

provisions of the Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in an account or subdivision of an account of a school unit shall be transferred to the proper place under this Act on the approval of the management board.

**5. Agreements, leases, contracts, authorizations or bonds.** All agreements, leases, contracts, authorizations, notes or bonds, issued under the Revised Statutes, Title 20, prior to the effective date of this Act shall continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked.

**6. Dedicated revenues.** This Act shall not be construed to change the status of any dedicated revenues. All dedicated revenues existing prior to this Act shall not lapse because of this Act, but shall be transferred to the funds of the same name which are created by this Act.

**Sec. 4. Legislative intent.** It is the intent of the Legislature that this Act shall be considered a revision of the Department of Educational and Cultural Services governing statutes.

#### STATEMENT OF FACT

This bill reorganizes the education statutes. Title 20, except for sections 3457 to 3460, is repealed. A new Title, Title 20-A, Education, is established. The following table shows the derivation of sections from the old to the new law.

OLD	NEW
1	101
1-A	101
1-B	102
3	153
4	2
5	2
6	163
21	3
22	3
23	3
51	201, 205
52	202
53	203

<b>OLD</b>	<b>NEW</b>
54	204
55	207
57	205
58	154
59	206
71	301
72	302
73	307
74	309
75	303
76	304
77	304
78	305
79	310
80	308
81	306
102	153-156, 159, 160-162
103	152, 153
104	153
105	154
106	154
151	1901
152	1101, 1102, 1457
153	1101, 1102, 1902, 1903
154	1101, 1457
155	1901
156	1101, 1901
157	1901
158	1902

<b>OLD</b>	<b>NEW</b>
159	154
106	1101
161	1103, 1104
162	1105
211	1001
212	205
213	1401, 1402
213-A	1458
215	1402
216	1403
217	1404
218	1512
219	1406
220	1151
222	1601-1604
224	1505
225	1551-1554
226	1502-1504, 1506, 1507, 1509
226-A	1505
301	1451-1455
301-A	1453, 1454
302	1051, 1451, 1453
304	1511
305	1402, 1501, 1502, 1506, 1508, 1510
306	1353, 1455, 1456
307	1459
308	1455
309	1201
309-A	1201

<b>OLD</b>	<b>NEW</b>
309-B	1201
309-C	1051, 1052
309-D	1051
371	1701-1703
372	1702-1705
373	1051, 1353, 1751-1753
374	1704
375	1101-1105
376	1802
377	1151
378	1804
379	1801
380	1803
381	1851-1853
382	1854
411	2109
471	2101-2103
472	2101-2103
472	1051, 2107
473	1104, 1353, 2105, 2110
474	2108
475	2104
476	2106
521	2001
522	2001, 2002
571	1301
801	3002
802	1103, 3803
803	3005

<b>OLD</b>	<b>NEW</b>
804	10412
805	3006
806	3007
807	3251
808	3252
854	163
855	3001
856	3003, 3004
857	3004
859	3101-3103
860	3102
861	3102
862	1151, 3104
863	9203
911	3301-3303, 3351, 3353
912	3105
913	3352
914	3351
915	3353
916	3901
918	3008
931	3401
932	3402
933	3403
934	3404
961	3202
962	3201
963	3201
964	3201

<b>OLD</b>	<b>NEW</b>
965	3201
966	3203
967	3204, 3206
1011	2901
1013	3501
1014	3501
1015	3502
1051	3551, 3552
1052	3551
1053	3552
1054	3553
1055	3204, 3205
1091	3601
1131	3651
1132	3651
1133	3651
1134	3652, 3653
1135	3652
1138	3653
1171	3701
1172	3701
1174	3701
1191	3751
1193	3751
1194	3751
1195	3751
1221	3802
1222	3803
1223	3804



<b>OLD</b>	<b>NEW</b>
1224	3805
1225	1151, 3805
1226	3805
1227	3805
1228	3805
1229	3805
1230	3805
1231	3002
1281	4001, 4002, 4005
1282	4004
1284	4003
1285	1011, 1151
1286	4051
1289	4051
1291	1152, 4052
1292	4053
1292-A	4054
1341	4151
1342	4151
1343	
1344	4101
1345	4102
1346	4103
1348	4104
1451	4201, 4251
1453	1151, 1152
1454	4253
1455	4304
1456	4254

<b>OLD</b>	<b>NEW</b>
1457	4255
1458	4351
1459	4301
1460	4303
1461	4353
1461-A	4354
1462	4352
1463	4352
1464	4355
1465	4355
1466	4356
1467	4357
1468	4358
1469	4352
1470	4359
1471	4352
1472	4301
1473	4305
1474	4401
1475	4305
1476	4301, 4402
1477	4403
1478	4302
1779	4360
1751	9002
1752	9003
1753	9001
1754	9001
1801	9004

<b>OLD</b>	<b>NEW</b>
1802	9005
1851	9101
1901	9102, 9103
1902	9104
1951	9201
2001	9202
2011	9301
2612	9702
2013	9303
2014	9304
2015	9305
2016	9306
2107	9307
2018	9308
2019	9309
2021	9351
2022	9352
2202	7101-7104
2203	7105
2204	7106
2204-A	7002
2205	8102
2206	8101
2207	8101
2208	8104
2204	8105
2210	8103
2211	8106
2231	7601

<b>OLD</b>	<b>NEW</b>
2232	7602
2233	7603
2234	7604
2235	7605
2236	7606
2241	7901
2242	7902
2243	7903
2242	7904
2251	7202
2252	7203
2253	7204
2254	7205
2255	7206
2256	7206
2261	7301
2261-A	7301
2262	7302
2263	7303, 7304
2264	7305
2265	7306
2266	7307
2267	7308
2268	7309
2269	7310
2270	7311
2271	7801
2272	7802
2273	7802-7804

<b>OLD</b>	<b>NEW</b>
2274	7805
2276	7805
2277	7806, 7807
2278	7808
2311	7502
2313	7503
2314	7501
2351	5601, 5604
2351-A	5602
2352	5603
2353	5604
2356-A	5602, 5605, 5701-5706
2356-B	5651, 5754
2356-C	5654
2356-F	5705
2356-G	1051, 1151, 5751-5760
2356-H	5652
2356-I	5653
2356-J	5655
2371	7701
2372	7702-7707
2373	7708
2381	5801
2382	5803
2383	5804
2384	5805
2388	5806
2386	5807
2387	5808

<b>OLD</b>	<b>NEW</b>
2388	5809
2389	5810
2390	5802
2401	157
2451	158
2452	158
2454	1354
2501	5901
2551	6001
2552	6002
2553	6003
2554	6003
2601	601
2602	602
2603	603
2604	604, 7207
2605	605, 7207
2651	6101
2652	6101
2653	6102
2654	6103
2655	6104
2656	6105
2661	6201, 6202
2662	6202, 6203
2663	6204
2701	8001
2702	8002
2703	8003

<b>OLD</b>	<b>NEW</b>
2704	8004
2720	401
2721	401
2751	7401
2752	7402
2753	7403
2754	7404
2755	7405
2756	7406
2757	7407
2758	7408
2759	7409
2760	7410
2801	7451
2802	7452
2803	7453
2804	7454
2805	7455
2901	501
2902	502
2903	503
2904	504
2905	505
2906	506
2907	507
2908	508
2909	509
2921	551
2922	552

<b>OLD</b>	<b>NEW</b>
2923	553
3121	5051
3122	5051, 5301-5303
3123	1151, 5001
3124	5052, 5053
3125	5054, 5101-5106
3126	5053, 5054, 5151
3127	5055
3128	5052, 5054
3130	5152
3131	5002, 5054, 5056, 5057, 5151, 5205
3132	5053, 5056, 5059, 5151
3161	5401
3162	5402
3201	5201
3202	5001
3203	5202
3204	5203
3205	5204
3301	5501
3302	5502
3303	5503
3451	5002
3452	1,10001
3453	10004
3453-A	10003
3454	10005
3455	10005
3471	10401, 10404, 10405, 10407



**OLD****NEW**

3472	10401, 10402, 10406, 10408
3473	10409
3474	1355
3475	10410
3476	1352
3477	10401, 10406
3481	10411
3482	10402
3483	10402, 10403, 10405
3502	10302
3503	10308
3504	10304
3505	10303
3506	10305
3507	10306
3508	10307
3508-A	10308
3509	10309
3510	10314
3511	10310
3512	10311
3513	10315
3514	10312
3515	10313
3516	10317
3517	10316
3561	1151, 1357
3562	1251
3562-A	1252

<b>OLD</b>	<b>NEW</b>
3562-B	1252
3562-C	1253
3562-D	1356
3563	1254
3564	1255
3565	1255
3566	1255
3567	1255
3568	1255
3569	1255
3570	1255
3671	10101
3672	10102
3673	10103
3674	10104
3771	1303
3772	1304
3773	1305
3774	1306
4741	10201
4742	10202
4743	10203, 1351
4744	10204
4745	10205
4746	10206
4747	10207
4748	10208
4749	10209
4750	10210

<b>OLD</b>	<b>NEW</b>
4751	10211
4752	10212
4753	10213
4754	10214
4755	10215
4756-A	10216
4757	10217
4758	10218