

MAINE STATE LEGISLATURE

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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 Fule 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. **Eduational 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:

$$\frac{\text{number of each municipality's teaching positions}}{\text{aggregate attendance of pupils residing in the municipality}} = \frac{\text{number of teaching positions in the schools}}{\text{aggregate attendance of all the school's regularly enrolled pupils}}$$

B. If a teaching position is maintained for only part of a school year, it shall be counted as follows:

$$\frac{\text{teaching position count}}{\text{number of weeks the position is maintained}} = \frac{\text{total number of weeks in the school year.}}$$

§ 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. **Adult 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 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.

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OLD	NEW
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

OLD	NEW
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

OLD	NEW
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

OLD	NEW
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

OLD	NEW
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

OLD	NEW
4751	10211
4752	10212
4753	10213
4754	10214
4755	10215
4756-A	10216
4757	10217
4758	10218