

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

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responsible state agency, the payment shall be paid from the state contingent fund.

4. Appeal from State Claims Board decision. An appeal from the disapproval or partial disapproval of a claim decided by the State Claims Board under subsection 2 or 3 shall be by introduction of a bill into the Legislature.

5. Jurisdiction over claims prior to January 4, 1977. The jurisdiction of the State Claims Board over claims subject to this section includes those claims which have arisen prior to January 4, 1977, unless they have been ruled upon by the Governor and Executive Council or by the Legislature prior to January 4, 1977.

6. Hearings. Hearings on claims submitted under subsection 2 or appeals made under subsection 3 shall be held at a time and place which the State Claims Board shall determine. The chairman shall assign either one or 3 members to hear and determine each claim. Hearings on claims under this section which are properly submitted to the State Claims Board shall be held in accordance with the Maine Administrative Procedure Act, chapter 375. The decision of the board shall include the reasons for the findings.

7. Different procedures. A claim submitted under this section shall not be disapproved solely because a claim based on the same facts was submitted under a different statutory procedure and was disallowed.

8. Rules and regulations; report. The board may adopt rules and regulations to implement this section. The board shall, on or before January 30th of each year, report to the Legislature on all claims filed pursuant to this section.

Effective July 6, 1978

CHAPTER 625

AN ACT Relating to the Funding of Education.

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

Whereas, the voters voted on December 5, 1977, at a state wide referendum, to repeal the uniform property tax provision of the School Finance Act of 1976; and

Whereas, the education of the youth of Maine and providing funds therefor are prime obligations of government and are essential to the preservation of the rights and liberties of the people; and

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

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

Sec. 1. 20 MRSA § 220, 4th ¶, first sentence, as enacted by PL 1975, c. 272, § 1, is amended to read:

Total expenditures for purchases of school buses used in transportation of elementary and secondary students approved by the ~~Commissioner of Educational and Cultural Services~~ commissioner during any single year shall not exceed ~~\$3,000,000~~ \$4,000,000.

Sec. 2. 20 MRSA § 358, 2nd ¶, 6th sentence, as enacted by PL 1975, c. 510, § 18, is amended to read:

Total expenditures for purchases of school buses used in transportation of elementary and secondary students approved by the ~~Commissioner of Educational and Cultural Services~~ commissioner during any single year shall not exceed ~~\$3,000,000~~ \$4,000,000.

Sec. 3. 20 MRSA § 934 is enacted to read:

§ 934. Programs for dropouts and truants

1. Programs for school dropouts and truants. Administrative units are encouraged to establish part-time or full-time programs for school dropouts and chronic truants of legal school age. Because many students are alienated from regular school programs or have personal barriers preventing successful continuation in these programs, any student considered for alternate programs under this section shall be involved in the process of selection and formation of these alternate programs.

2. Count of pupils for subsidy purposes. Students enrolled in those programs shall be counted as .1 of a pupil for enrolling in a semester credit course or its equivalent leading toward a high school graduation. For subsidy purposes, no pupil shall be counted as more than one pupil under this Title. The reimbursement to the unit shall be in accordance with chapter 515.

3. Tuition; approval of a superintendent; commissioner's guidelines. Whenever a unit has no program for these students, it may, with the approval of the superintendent of schools, tuition these students to a neighboring administrative unit or private school. The sending unit shall pay tuition in an amount no greater than .1 of the present per pupil subsidy allocation for secondary students in the

sending unit, for each semester course or its equivalent where a student is enrolled. The commissioner shall establish guidelines for the administration of this program.

Sec. 4. 20 MRSA § 2384, as enacted by PL 1977, c. 361 § 10, is repealed and the following enacted in its place:

§ 2384. Participation in adult education

1. General. Any person who is 17 years of age or older and who is not attending public schools is entitled to local adult education courses in accordance with local program criteria. The commissioner may grant exceptions under this subsection in admitting students into adult education programs at the local level. Students enrolled in public day school programs may participate in adult or adult vocational programs to supplement the regular day school program on an exception basis in accordance with the guidelines established by the commissioner.

2. School age pupils; pupil count; reimbursement; enrollment in neighboring unit.

A. Any pupil between the 16th and 20th anniversaries of his birth, who enrolls in a semester adult evening school course under guidelines established by the commissioner, shall be counted as .1 of a pupil.

B. The unit in which a student resides shall be reimbursed in accordance with chapter 515.

C. When a unit does not offer an appropriate adult evening school course, the student may enroll in a neighboring unit or private school, subject to the approval of the sending unit's superintendent of schools. The sending unit shall pay tuition to the receiving unit in an amount no greater than .1 of the present per pupil subsidy allocation for secondary students in the sending unit.

Sec. 5. 20 MRSA § 3457, Table II, first ¶, last sentence, as enacted by PL 1977, c. 78, § 139, is repealed as follows:

~~It is the intention of the Legislature, as expressed in section 3742, that 50% of the cost of construction shall be paid from a uniform property tax assessed against all the municipalities in the State and that 50% of the cost of construction shall be paid from nonproperty tax revenues.~~

Sec. 6. 20 MRSA § 3561, 4th ¶, 6th sentence, as enacted by PL 1975, c. 510, § 29, is amended to read:

Total expenditures for purchases of school buses used in transportation of elementary and secondary students approved by the Commissioner of Educational and Cultural Services commissioner during any single year shall not exceed

~~\$3,000,000~~ \$4,000,000.

Sec. 7. 20 MRSA c. 512-A, as enacted by PL 1975, c. 660, § 2 and as amended, is repealed.

Sec. 8. 20 MRSA c. 515 is enacted to read:

CHAPTER 515

THE SCHOOL FINANCE ACT OF 1978

§ 4741. Short title

This chapter may be cited as the "School Finance Act of 1978."

§ 4742. Intent

1. **Contribution 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.

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 4750, subsection 6.

§ 4743. Definitions

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

1. **Actual education costs.** "Actual education costs" shall mean the state and local expenditures during the base year for the programs and adjustments specified in section 4744.

2. **Average elementary per pupil operating costs.** "Average elementary per pupil operating costs" shall be 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.

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 elementary per pupil operating costs.**

3. Average secondary per pupil operating costs. "Average secondary per pupil operating costs" shall be 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. Any student graduating from grade 12 during the base year prior 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" shall mean 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 administrative units;

D. Special education tuition and board, excluding medical costs, for pupils placed by administrative units;

E. Vocational education;

F. Transportation; and

G. Debt service.

6. Basic education appropriation. "Basic education appropriation" shall mean the amount appropriated from General Fund revenue sources for all public education programs established by the Legislature under section 4747.

7. Basic elementary per pupil operating rate. "Basic elementary per pupil operating rate" shall mean the rate established by the Legislature in section 4747, subsection 1.

8. Basic secondary per pupil operating rate. "Basic secondary per pupil operating rate" shall mean the rate established by the Legislature in section 4747, subsection 2.

9. Debt service costs. "Debt service costs", for subsidy purposes, shall include:

- 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 1292; and
 - C. Lease costs for school buildings when the leases have been approved by the commissioner.
10. Elementary grades. "Elementary grades" shall include a childhood educational program, as defined by section 859, through grade 8.
11. Institutional resident. "Institutional resident" shall mean any person between the ages of 5 and 20 who is attending a public school of the administrative unit and who is committed or otherwise legally admitted to, and residing at, any state-operated institution. This shall not include students attending private facilities, regardless of the means of placement.
12. Local allocation. "Local allocation" shall mean each administrative unit's portion of the state-local allocation.
13. Major capital costs. "Major capital costs" shall include all costs relating to school construction projects as defined in section 3471.
14. Minor capital costs. "Minor capital costs" shall include all costs which are related to maintenance of plant and minor remodeling and shall be a part of operating costs.
- A. Administrative units are authorized, with approval of the legislative body, to arrange financing for maintenance of plant and minor remodeling;
 - (1) 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. Administrative units are authorized to establish a capital reserve fund for maintenance of plant and minor remodeling.
 - C. Minor capital costs shall not include construction of new buildings or the purchase of land.
15. Municipality. "Municipality" shall include all cities, towns and organized plantations.
16. Operating costs. Except as listed in this subsection, "operating costs" shall include all costs minus applicable tuition receipts. 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 programs defined in subsection 17;
 - G. Vocational education programs defined in subsection 21; and
 - H. Costs of maintaining:
 - (1) The Governor Baxter State School for the Deaf;
 - (2) The Maine Youth Center;
 - (3) The schools in the unorganized territories as defined by section 1451; and
 - (4) The Indian schools operated pursuant to Title 22, section 4719.
17. Secondary grades. "Secondary grades" shall mean grades 9 through 12.
18. Special education costs. "Special education costs", for subsidy purposes, shall include:
- A. The costs of certified professionals, assistants and aides 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.
19. State allocation. "State allocation" shall mean the amount allocated from General Fund revenue sources to fund the state's portion of the state-local allocation.
20. State-local allocation. "State-local allocation" shall mean the total amount allocated to each administrative unit during the year of allocation for the programs and adjustments computed in sections 4748 and 4749.
21. State-operated institution. "State-operated institution" shall include any residential facility or institution which is operated by the Department of Mental Health and Corrections.
22. Subsidy index. "Subsidy index" shall mean the equivalent of a mill rate which, if applied to the state valuation of all municipalities and as limited by

section 4751, subsection 1, paragraph C, would raise not more than 50% of the basic education allocation.

A. This index shall not be levied but shall be used for the purpose of computing allocations.

23. Vocational education costs. "Vocational education costs", for subsidy purposes, shall include all costs incurred by the vocational regions, centers or satellites, in providing approved secondary school vocational education programs as defined by section 2356-A, subsection 3.

24. Year. "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year.

§ 4744. Notification of actual education costs; other information; unit reports mandatory; 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 the administrative units;

D. Special education tuition and board, excluding medical costs, defined as follows:

(1) Tuition and board for pupils placed by administrative units;

(2) Tuition and board for pupils placed directly by the State in accordance with rules and regulations adopted by the commissioner and special education tuition and other tuition for institutional residents of state-operated institutions attending programs in administrative units in accordance with rules and regulations adopted by the commissioner; and

(3) Adjustment under section 4749, 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. Cost of adjustments for small administrative units;
- K. Costs of reimbursement for private school transportation;
- L. State expenditures for each of paragraphs C through K;
- M. Audit adjustments;
- N. Local and state funds raised under section 4751, subsection 3; and
- O. Local funds raised under section 4752.

2. Additional information. The commissioner shall provide any additional information as requested by the Legislature.

3. Unit reports required; subsidy payments withheld. Each administrative unit shall provide the commissioner with any information he deems necessary to carry out this chapter according to time schedules which he shall establish.

A. The commissioner is granted the authority to withhold monthly subsidy payments from any administrative unit when information is not filed within specified time schedules.

4. Audit adjustments. The commissioner shall have the authority to correct errors revealed by audit in administrative units when compiling actual education costs.

§ 4745. Commissioner's recommendation for funding levels; computations; guidelines;

1. Annual certification. Prior to December 15th of each year, the commissioner, with the approval of the State Board of Education, shall certify to the Bureau of the Budget the funding levels he recommends for section 4744, subsection 1, paragraphs A through K and M, and for the state's maximum obligation under section 4751, subsection 3.

2. Funding level computations.

A. The requested funding levels for section 4744, 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 4744, 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 4744, subsection 1, paragraph F, shall be computed by using 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 4744, 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 4744, subsection 1, paragraph G, shall be computed by using 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 any 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 educational financing.

§ 4746. 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 4744, subsection 1, paragraphs A through K and the state's maximum obligation under section 4751, subsection 3. The Governor's recommendation shall be transmitted to the Legislature within the time schedule set by Title 5, section 1666.

§ 4747. 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 4743 and computed in sections 4748 and 4749, subsections 1 and 3;
6. Appropriation for state share of local leeway. Appropriate the necessary funds to meet the maximum state obligation under section 4751, subsection 3;

7. Appropriation for unusual enrollment. Appropriate the necessary funds for the contingent account for unusual enrollment adjustments established by section 4749, subsection 4;

8. Appropriation for geographic isolation. Appropriate the necessary funds for adjustments due to geographic isolation as determined by section 4749, subsection 2;

9. Appropriation for small administrative units. Appropriate the necessary funds for adjustments to small administrative units which qualify in accordance with section 4749, subsection 8;

10. Appropriation for audit adjustments. Appropriate the necessary funds for audit adjustments which are authorized pursuant to section 4749, subsection 7;

11. Appropriation for nonpublic school student services. Appropriate the necessary funds for reimbursement for nonpublic school student services as authorized by section 4750, subsection 6; and

12. Appropriation for pupils placed directly by the State and for institutional residents. Tuition and board for pupils placed directly by the State in accordance with rules and regulations adopted by the commissioner and special education tuition and other tuition for institutional residents of state-operated institutions attending programs in administrative units in accordance with rules and regulations adopted by the commissioner.

§ 4748. Computation of the state-local allocation prior to adjustments

The state-local allocation to each administrative unit prior to adjustments authorized under section 4749, shall be computed by the commissioner 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 4747.

2. Secondary education allocation. The secondary education allocation shall be determined by multiplying the average number of resident secondary 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 secondary per pupil operating rate as established in section 4747. Pupils enrolled in programs for school dropouts and truants shall be counted in the manner provided in section 934 and pupils enrolled in adult education programs eligible for state subsidies shall be counted in the manner provided in section 2384.

3. Basis of state-local allocation for special education, vocational education, transportation and debt service; Legislative changes; transportation costs.

A. A 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 subject to paragraph B.

B. If the Legislature increases the commissioner's recommendation for any item, the unit allocation shall be increased by the same percentage increase established by the Legislature and, if the Legislature decreases the commissioner's recommendation for any item, the unit allocation shall be decreased by the same percentage decrease established by the Legislature.

C. In the event 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; 1979 fiscal year.

A. The special education allocation shall be the expenditures for special education programs operated or contracted for by the administrative unit and the expenditures for special education tuition or board, or both. 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.

C. An administrative unit's state subsidy for special education tuition and board, in the state's fiscal year 1979, shall be based on the amount of money which it expended for special education tuition and board in the fiscal year 1978 or the amount of money it will expend for special education tuition and board in the fiscal year 1979, whichever is less.

5. Vocational education allocation; billing authority; appeal to commissioner; payment of state subsidy.

A. Vocational education allocation shall be the expenditures for vocational education programs serving the administrative unit.

B. A vocational center or region shall be able to bill other units in the manner authorized in subparagraph (1).

(1) Any vocational center shall have the authority to 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. Any vocational region shall have the same authority to bill vocational centers for any students who are sent to the region for vocational education programs.

C. If any bill authorized under paragraph B is not paid within 30 days after submission, the vocational center or region may appeal to the commissioner under section 1292.

6. Transportation allocation; 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.

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 and 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.

§ 4748-A. Computation allocation and requested funding levels

Notwithstanding any other provision of this chapter, for the year beginning July 1, 1978, and ending June 30, 1979, only, the state-local allocation to each administrative unit prior to adjustments under section 4749 shall be computed for the following items by the commissioner.

1. Special education; vocational education; transportation; debt service. The unit allocation for each of the following items shall be the same amount as is contained in the commissioner's recommendation of education costs, except that, if the Legislature increases the commissioner's recommendation for any item, the unit allocation shall be increased by the same percentage increase established by the Legislature and, if the Legislature decreases the commissioner's recommendation for any item, the unit allocation shall be decreased by the same percentage decrease established by the Legislature. In the event 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.

A. Reimbursement for both special education programs operated or contracted for by the administrative unit and for special education tuition and board shall be limited to 90% of the estimated costs as adjusted by the commissioner, or 90% of the actual expenditures, whichever is less. 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. In no event shall a local unit be responsible for contracted special education tuition and board in an amount greater than \$500 per pupil for any pupil for whom the unit has contracted. Any amount exceeding \$500 per pupil for any pupil shall be entirely reimbursed. In the state's fiscal year 1979, an administrative unit's state subsidy for special education tuition and board shall be based on the amount of money which it expended for special education tuition and board in fiscal year 1978 or the amount of money it will expend for special

education tuition and board in the fiscal year 1979, whichever is less. Medical costs shall not be allowable as a part of a tuition charge.

B. Reimbursement for vocational education shall be limited to 90% of the estimated costs or 90% of the actual expenditures, whichever is less.

Any vocational center shall have the authority to 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 year immediately prior to the year of allocation. Any vocational region shall have the same authority to bill vocational centers for any students which they may send to the region for vocational education programs.

If any bill authorized under this paragraph is not paid within 30 days after submission, the vocational center or region may appeal to the commissioner under section 1292.

Expenditures for the first 6 months and expenditure estimates for the next six months as submitted by vocational regions, or member units of those regions, shall be used in computing transportation reimbursements to the regions for the fiscal year 1978 and thereafter, notwithstanding any other section of this Title. The commissioner is authorized to obtain expenditures and estimates and to make the necessary adjustments in vocational education cost estimates in accordance with the definition of vocational education costs for subsidy purposes.

C. Reimbursement for transportation operating costs shall be limited to 90% of the estimated costs or 90% of the actual expenditures, whichever is less.

D. Principal and interest costs for approved major capital projects shall be reimbursed in the year of allocation.

Reimbursement for lease expenditures shall be no greater than the expenditure during the fiscal year 1977 only.

2. Requested funding levels. Notwithstanding section 4745, for the year beginning July 1, 1978, and ending June 30, 1979, the requested funding levels for the items in subsection 1 shall be as follows:

A. The requested funding levels for section 4744, subsection 1, paragraph C; paragraph D, subparagraph (1); and paragraphs E and F; and the requested funding level of the insured value factor and leases under paragraph G shall be computed by adding the actual costs for the first half of the year prior to the year of allocation of funds to the total estimated costs that will be incurred for the 2nd half of the same year.

B. The requested funding level of principal and interest payments under section 4744, 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.

C. The commissioner shall have the authority to amend any estimate where he believes the estimate is unreasonable.

§ 4749. Adjustments included in state-local allocation

Adjustments to the state-local allocation shall be made as allowed in subsections 1 to 8. No unit shall 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.

A. If the 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 the unit's average elementary or secondary per pupil operating costs for the base year, plus an amount equivalent to 1/3 of the difference between the unit's per pupil elementary or secondary cost for the base year, as adjusted, and the basic elementary or secondary per pupil operating rate respectively.

B. If the 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 respectively, except if the 1973-74 expended local average elementary or secondary per pupil operating cost respectively exceeds the average elementary or secondary per pupil operating rate respectively, the per pupil allocation for elementary or secondary pupils respectively shall be increased by 1/2 the lesser amount of the 2 following differences:

(1) The difference between the basic elementary or secondary per pupil operating rate respectively and the local average elementary or secondary per pupil operating cost respectively; or

(2) The difference between the basic elementary and secondary per pupil operating rate respectively and the local average elementary or secondary per pupil operating cost respectively expended during the 1973-74 school year.

2. Geographic isolation; determination; adjustment limitation.

A. The commissioner, with the approval of the State Board of Education, shall determine geographic isolation if a unit is located an unreasonably long distance from another unit or school facility or is situated in a location which has unique problems in transporting students to another school unit.

B. If the unit is declared to be geographically isolated under paragraph A, 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 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.

A. An administrative unit which enrolls eligible pupils under P.L. 81-874

(Impact Aid, section 3) shall count those pupils as resident pupils for purposes of this chapter.

B. The state-local allocation to such a unit shall be adjusted by subtracting therefrom the Federal Public Law 874 receipts in the same proportion that total local revenues under the state equalization program are to total local revenues for education in the unit.

C. The amount subtracted under paragraph B may not exceed 90% of the unit's entitlement for the base year. In adjusting the allocation under this paragraph, the amounts subtracted for pupils residing on land under control of the Federal Government, or any agency thereof, or on a federal military reservation shall not exceed $\frac{1}{2}$ of the national average expenditure per pupil, as computed by the Federal Government, multiplied times the number of the students in the unit.

4. Unusual enrollment; computation of adjustment; proration; local authorization; contingent account.

A. A unit may qualify for an unusual enrollment subsidy adjustment whenever 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 units shall be prorated if necessary to remain within the sum appropriated for that adjustment.

C. Local administrative units are authorized to 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. Notwithstanding any other provision of this section, the commissioner may use any unexpended balance in the amount appropriated for unusual enrollment increases to reimburse any unit which:

- (1) Has experienced an unusual enrollment increase;
- (2) Has not raised the maximum amount of its local allocation; and
- (3) Has received any state allocation.

5. Decrease in enrollment; guaranteed allocation.

A. Any 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 minimum, be eligible to have its state-local allocation based on the basic elementary or secondary per pupil operating rate.

6. Special education adjustment; guidelines; limits; local authorization.

A. If an administrative unit petitions the commissioner and demonstrates that the tuition or board payment to a special education facility for the initial placement of an exceptional child will cause a budgetary hardship, the commissioner may adjust the unit's allocation to include up to the amount of the tuition and board payments.

B. The funds for the adjustment shall be limited to the amount appropriated by the Legislature for that purpose.

C. School committees and boards of school directors shall be authorized to expend the funds allocated without having to seek approval from their legislative bodies.

7. Audit adjustment; limits.

A. If errors are revealed by audit and corrected by the commissioner under authority granted in section 4744, subsection 4, the 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 4747, subsection 10.

8. Small unit subsidy adjustments; legislative intent. A unit may qualify for one of the following small unit subsidy adjustments.

A. A unit shall receive a minimum allocation for operating costs equal to $\frac{5}{3}$ of the state average elementary teachers' salary in the school year immediately prior to the year of allocation as determined by the commissioner, if it 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.

B. A unit 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 respectively or the actual cost of tuition payment in the year of allocation, whichever is less, if it 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.

C. The small unit subsidy adjustment shall guarantee a minimum subsidy payment for operating costs to those units which qualify and it shall be made only after the adjustments in subsections 1 through 7 have been made.

§ 4750. Authorization of payment of state allocation; appeals; limitation of use

1. Authorization of payment of state allocation. The commissioner shall authorize state allocation payments to the administrative units to be made in accordance with time schedules set forth in section 3455, sections 3457 to 3460 and sections 3471 to 3477.

2. Notification of allocation; commissioner's duty; superintendent's duty.

A. The commissioner shall annually, on or before May 15th, notify the school

committees or school directors of each administrative unit of the amount allocated to the unit.

B. The superintendent of schools of each unit shall report to the municipal officers whenever the unit is notified of the allocation or a change is made in the allocation to a unit 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 administrative unit and shall be based upon the number of resident pupils educated at public expense and contingent expenditures as outlined in this chapter based upon audited financial reports submitted by the various administrative units.

4. Computation of state allocation payments to community school districts. Whenever a community school district is organized to educate some, but not all, of the grades from kindergarten through grade 12, the department 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 B divided by A times the state valuation for the municipality as determined by the State Tax Assessor. The result determines that part of the member municipality's valuation which the department will 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 student service reimbursements. Notwithstanding any other provision of this chapter, the commissioner shall reimburse 50% of the expenditures of the base year as reported by the municipal officers on forms provided by the commissioner for providing any of the services to nonpublic school pupils authorized by Title 30, section 5104, subsections 5 through 8, provided the students attend nonpublic schools that are not operated for profit in whole or in part. The total amount reimbursed under this section shall not exceed the level of funds appropriated for this item under section 4747, subsection 11. The municipal officers shall submit documentation demonstrating the amount of money appropriated for nonpublic school student services for the year of reimbursement. The commissioner is authorized to promulgate reasonable rules and regulations to assure that all sums reimbursed were utilized and actually expended for programs authorized pursuant to Title 30, section 5104, subsections 5 through 8; that no municipality receives reimbursement under this section for any student who attends a nonpublic school at public expense and that all services provided to nonpublic school students that require professional personnel be provided by persons who are public employees.

7. Private school transportation payments; other payments for services to private school students. Notwithstanding any other provisions of this chapter, for the year beginning July 1, 1978, and ending June 30, 1979, the commissioner shall reimburse 90% of the expenditures for private school transportation for the year prior to the year of allocation. For the year beginning July 1, 1979, and ending June 30, 1980, the commissioner shall reimburse 50% of the expenditures of the year immediately prior to the year of allocation for those items subject to reimbursement under subsection 6. These expenditures shall be computed by adding the actual costs for the first half of that year to the total estimated costs that will be incurred for the 2nd half of that year as reported by any municipality for providing the transportation of school children to and from schools other than public schools, except such schools as are operated for profit in whole or in part. A municipality shall be limited to 90% of the estimated costs, as adjusted by the commissioner, or 90% of the actual expenditure, whichever is less. The total amount reimbursed under this subsection shall not exceed the level of funds appropriated for this item under section 4747, subsection 11.

8. Direct special education payments. The commissioner is authorized to make tuition and board payments directly to private special education boarding schools which receive state wards or other pupils placed directly by the State.

9. Education of institutional residents. The commissioner is authorized to pay tuition to administrative units for institutional residents, as defined in section 4743, subsection 11, and within the limits of the appropriation made under section 4747, subsection 12.

10. Appeals. The computation of state allocation for any unit may be appealed in writing to the State Board of Education by the school committee or board of directors of any administrative unit within 30 days from the date of notification of the computed amount. The board shall review the appeal and make an adjustment if, in its judgment, such an adjustment is justified. The board's decision shall be final as to facts supported by the records of the appeal.

11. School purpose expense requirement. Notwithstanding any other public or private statute to the contrary, all money allocated for school purposes shall be expended for school purposes only.

12. Balance of allocations. Notwithstanding any other public or private statute to the contrary, balances of allocations at the end of the unit's fiscal year shall be carried forward to meet the next year's school needs.

§ 4751. Local allocation and appropriations

1. Local allocation computation; recorded vote; limit.

A. The commissioner shall compute the local allocation using the subsidy index established by the Legislature under section 4747, subsection 4, and the state valuation of the municipalities within each administrative unit.

B. The legislative body of each administrative unit may vote to raise and appropriate an amount up to the local allocation as computed by the commissioner. This action shall be taken by a recorded vote.

C. The commissioner's computation of the local allocation for each administrative unit shall not exceed the state-local allocation as adjusted by

section 4749 for the unit.

2. Local appropriation of state-local allocation. An article in substantially the following form is to be used when any administrative unit is considering the appropriation of the state-local allocation:

Article : To see what sum the municipality/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.

A. The legislative body of an administrative unit may, in addition to the unit's state-local allocation under sections 4748 and 4749, authorize an additional expenditure for either elementary or secondary pupils, or both, not to exceed a local appropriation for each municipality of 1.3 mills on the state valuation in effect on July 1st or \$125 per pupil, whichever is less, for the 1978-79 year of distribution. No unit shall participate in local leeway unless it has raised the maximum amount of its local allocation, as computed by the commissioner under subsection 1, paragraph A.

B. Such local appropriations shall be divided equally over a 12-month period.

C. The funds appropriated under this subsection shall be called "local leeway."

(1) The purpose of these appropriations is to provide that all administrative units may raise and appropriate at least the amount per pupil established at the computed mill rate for that year under this subsection to supplement the adjusted allocations when necessary in the judgment of the local administrative units.

(2) The amount appropriated by the Legislature under section 4747, subsection 6, shall be the maximum state obligation under this subsection.

D. If the authorization for additional funds by an administrative unit under this subsection exceeds the maximum levy for any municipality within the administrative unit, the commissioner shall add to the allocation of the unit for the unit's fiscal year a sum which equals the excess over the maximum levy of any municipality within the unit.

E. Administrative units are authorized to establish an "accounts receivable" in anticipation of state aid under this subsection when the fiscal year closes on June 30th.

F. If the additional school levy authorized under this subsection 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 unit for the unit's fiscal year a sum which, when combined with the local levy under this section, shall equal the amount per pupil established at the computed mill rate for that year under this subsection. This sum shall be paid annually to the administrative unit no later than December 31st for the previous 12-month period.

G. If the administrative unit raises less than the maximum allowed under this

subsection, the levy on any municipality within the administrative unit shall be in the same proportion as the municipality's share is to the total when the maximum amount allowed is raised.

H. If the administrative unit raises less than the maximum allowed under this subsection, 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.

I. An article in substantially the following form is to be used when any municipality, School Administrative District or community school district is considering the appropriation of additional local funds under this subsection:

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 \$

§ 4752. Local funds without state participation

1. Authorization. Each administrative unit is authorized to raise and expend funds for educational purposes in addition to the funds available under sections 4748 through 4751.

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 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. In the event an administrative unit is required to pay administrative costs and has no allocation of state and local funds, that administrative unit may raise and expend funds for administrative costs.

§ 4753. 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 or meetings shall be presented to the treasurer of each municipality which is a member of the district.

A. The assessment schedule shall include each member municipality's share of the district's local allocation, the local leeway and the 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.

§ 4754. Special school districts

1. Special school district defined. Any school district created by private and special law for the purposes of constructing or adding to school buildings which

does not have authority nor responsibility for operating public schools is a "special school district" for the purposes of this section.

2. Administrative unit. For the purposes of sections 3457 to 3460 and 4757, any special school district to which this section is applicable shall be deemed to be an administrative unit.

3. Debt service; payments by school committee.

A. Debt service on bonds or notes issued by a special school district shall be included in the school budget of the administrative unit which operates the school or schools constructed by the district.

(1) The school committee, board of school directors or other board exercising like functions for the administrative unit which operates the school or 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 any maintenance or other costs for which the special school district is responsible.

§ 4755. School budget; budget formats

1. Content; state-local allocation; summary.

A. Each administrative unit shall include in its school budget its state-local allocation, its local leeway and any additional expenditures authorized by statute.

B. The budget document shall contain a summary of anticipated revenues and estimated school expenditures for the fiscal year.

2. Budget deadlines; prior to budget meeting; adoption.

A. At least 7 days before the initial meeting of the legislative body which is 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 administrative unit.

B. School budgets in all school administrative units shall be adopted on or before June 30th of each year, except that school budgets of vocational regions shall be adopted on or before July 31st of each year.

3. Budget formats; general; determination; public involvement.

A. Except as provided in subsection 4, the budget format shall be that prescribed by a majority of the school directors or school committee members until such time as an article prescribing the school budget format is approved by a majority of voters in an election in which the total vote is equal to or greater than 20% of the number of votes cast in the municipality at the most recent gubernatorial election, or 200, whichever is less.

B. The format of the school budget may be determined in accordance with section 226, subsection 3 or section 362.

C. It is the intent of the Legislature that the governing bodies of administrative units shall attempt to obtain public input into the development of the school budget.

4. Budget format; town or city charter. In a town or city where the responsibility for final adoption of the school budget is vested by municipal charter in a town or city council, the school budget format may be changed through amendment of the charter under the home rule procedures prescribed in Title 30, section 1911 to 1920, except that the amendment shall be approved by a majority of voters in an election in which the total vote is equal to or greater than 20% of the number of votes cast in the municipality at the most recent 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 prescribed in Title 30, section 2053 or 2061.

6. Budget format; community school district; trustee's duties; petition.

A. An article containing a community school district's proposed budget format shall be placed upon the next warrant issued or ballot printed if:

(1) A majority of the board of trustees votes to place it upon the warrant; or

(2) A written petition signed by 10% of the number of voters voting in the last gubernatorial election in each municipality comprising the district requests it to be on the warrant.

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 community school district's board of trustees shall:

(1) Issue a warrant specifying that the municipal officers of the municipalities within the community school district place the budget format article on the secret ballot to be voted upon as indicated in paragraph A; and

(2) Prepare and furnish the required number of ballots for carrying out the election, including absentee ballots.

7. Budget format: chapter 515 articles. The articles prescribed in chapter 515 shall be included in the budget format and voted upon in the adoption of the budget in order to determine state and local cost sharing.

8. Change in budget format. Any change in the budget format shall be voted upon at least 90 days prior to the budget year for which that change is to be effective.

§ 4756. Reconsideration of budget

For administrative units in which the school budget is finally approved by the voters, a special meeting to reconsider action taken on the budget may be called under the following conditions and by the following procedures set forth in this section.

1. **Reconsideration.** Meetings to reconsider action shall be called within 30 days of the regular budget meeting.

2. **Special budget meeting.** A special budget meeting may be called by the board of directors in a school administrative district or by the board of trustees in a community school district.

3. **Procedure for calling a special budget meeting.** A special budget meeting shall be called, within 15 days, by the board of directors in a school administrative district or the board of trustees in community school districts whenever 10% of the voters voting in the last gubernatorial election in the member towns of the district or 100 voters, whichever is less, have signed a petition for the meeting specifying the article or articles to be acted upon at the special budget meeting.

4. **Who may call a special budget meeting.** A special budget meeting may be called by the school committee in a municipality which is responsible for the operation of its schools or may be called by using the petition procedures set forth in Title 30.

5. **Check list required.** Prior to the articles dealing with school appropriations being voted upon, the moderator of each regular or special school budget meeting shall require the clerk or secretary to make a check list of the registered voters present. The number of voters listed on the check list shall be conclusive evidence of the number present at the meeting as referred to in subsection 6.

6. **Invalidation of action of a special budget meeting.** Whenever a special school 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 present at the special budget meeting is less than the number of voters present at the regular budget meeting.

7. **Line item transfers.** Meetings required by school committees or school directors 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.

§ 4757. Bonds; notes; etc.

1. **Obligations of administrative unit.** All bonds, notes or other evidences of indebtedness issued for school purposes by an administrative unit, as defined in section 3452, for major capital expenses or for current operating expenses, including tax or other revenue anticipation notes, shall be general obligations of the administrative unit.

2. **Tax assessments; reduction by legislative appropriation.**

A. The municipal officers, school directors, trustees or other governing board exercising like functions in each administrative unit 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.

(1) The sums so assessed 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 administrative unit.

B. The sums to be assessed and collected under paragraph A shall be reduced by the amount of any allocation of funds appropriated by the Legislature to pay the principal and interest owed by the administrative unit in any given year as certified to the unit by the commissioner. The commissioner shall certify the amount due to the unit within 30 days after it has been appropriated by the Legislature.

§ 4758. Compliance with federal and state laws and regulations

1. Commissioner's duty. The commissioner shall assure that any federal or state funds distributed to any school administrative unit are spent in compliance with:

A. Revenue sharing. Provisions of federal laws and regulations, Title 31, USCA, section 1242, as amended, and Part 51, chapter I of Subtitle B in Title 31 of the Code of Federal Regulations;

B. Education amendments. Title 9 of the Education Amendments of 1972, 20 USC, sec. 1681 et seq., and Part 86 of Title 45 of the Code of Federal Regulations;

C. Civil Rights Act. Title 6 of the Civil Rights Act of 1964, 42 USC 2000d and Part 80 of Title 45 of the Code of Federal Regulations;

D. Human Rights Act. Title 5, chapter 337 of the Maine Revised Statutes and the regulations promulgated pursuant to sections 4551 to 4631; and

E. Code of Fair Practices and Affirmative Action. Title 5, sections 781 to 790 of the Maine Revised Statutes.

2. Assistance. Upon request by the department, the Human Rights Commission and the Department of the Attorney General shall assist the Department of Educational and Cultural Services in meeting its obligation to respond to complaints raised pursuant to this section.

Sec. 9. 36 MRSA § 451-A, as enacted by PL 1977, c. 98, § 8, is repealed.

Sec. 10. 36 MRSA § 709-B an enacted by PL 1977, c. 48, § 5, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect immediately, except that sections 1, 2 and 6 shall take effect on July 1, 1978.

Effective March 7, 1978 unless otherwise indicated

CHAPTER 626

AN ACT to Revise the Statute on Operating a Motor Vehicle While under the Influence of Intoxicating Liquor or Drugs.