

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

AT THE

**SECOND REGULAR SESSION**

January 2, 1980 to April 3, 1980

AND AT THE

**THIRD SPECIAL SESSION**

May 22, 1980

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**PUBLIC LAWS**  
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## CHAPTER 669

H. P. 1768 — L. D. 1890

### AN ACT to Clarify the Standard of Review for Agency Rulemaking and to Clarify Compliance Requirements with Conflicting Rules.

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

Sec. 1. 5 MRSA § 8058, sub-§ 1, as enacted by PL 1977, c. 551, § 3, is amended by adding, after the 2nd sentence, 2 new sentences to read:

If the court finds that the rule was properly adopted and not in excess of the agency's rule-making authority, its substantive review of that rule shall be to determine whether the rule is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law. The phrase "otherwise not in accordance with law" shall apply only to the review authorized in the preceding sentence and shall not be construed so as to limit or replace in any way section 8003.

Sec. 2. 5 MRSA § 8059 is enacted to read:

#### § 8059. Inconsistent rules

When rules are inconsistent or conflict with other rules, then compliance with any such inconsistent or conflicting rule shall be deemed to be compliance with all such inconsistent or conflicting rules.

Effective July 3, 1980

## CHAPTER 670

H. P. 1944 — L. D. 1992

### An Act to Clarify the Education Law.

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

Whereas, Acts of previous Legislatures have resulted in certain technical errors, inconsistencies and ambiguities in Title 20; and

Whereas, it is vitally necessary such uncertainties and confusion be resolved to prevent any injustice or hardship on the citizens of Maine; 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 § 1-A, 4th sentence**, as last amended by PL 1973, c. 169, § 1, is further amended to read:

The department shall include the following as heretofore or hereafter created and established: The Department of Educational and Cultural Services, the State Board of Education, the Maine Education Council, the Maine Commission for the Higher Education Facilities Act of 1965, ~~the Maine Advisory Council on Vocational Education~~ the Maine Representatives to the New England Board of Higher Education, the Maine School Building Authority, the Governor Baxter School for the Deaf, the Maine State Commission on the Arts and the Humanities, the State Museum, the Maine State Museum Commission, the State Historian, the Maine State Library and the Maine Historic Preservation Commission.

**Sec. 2. 20 MRSA § 102, sub-§ 16, last 2 sentences**, as enacted by PL 1979, c. 71, are amended to read:

“Transitional instruction” means instruction given to a ~~non-English~~ **limited English** speaking student for the purpose of enabling the student to be instructed in English within a reasonable length of time. Transitional instruction shall not be construed as including bilingual education programs, as defined in United States Code Annotated, Title 20, section 880b-1, **that is, those programs** which do not include students of limited English speaking ability.

**Sec. 3. 20 MRSA § 220**, as repealed and replaced by PL 1979, c. 431, § 3, is amended by adding at the end the following new paragraphs:

**Whenever a parent or guardian having children of compulsory school age in his care domiciles the children in a location remote from and inaccessible to schools or public highways, he shall be personally responsible for the cost of boarding these children within walking distance to an established public school or for providing suitable conveyance to a public highway. Failure to provide conveyance or board shall be considered a violation of the truancy law and shall be punished accordingly.**

**Each unit shall file with the commissioner a description of the transportation services provided in that unit during the 1973-74 school year. Such a description shall be in the format which the commissioner shall prescribe. Additional transportation services and the purchase of new buses shall be accomplished in the most economical manner that is consistent with the welfare and safety of pupils. The commissioner shall have the responsibility of approving or disapproving all school bus purchases, contracts and leases. The school directors are authorized to procure short-term loans not to exceed 3 years for the purchase**

of school buses when that authorization has been approved at the annual or a special budget meeting.

Total expenditures for purchases of school buses used in transportation of elementary and secondary students approved by the commissioner during any single year shall not exceed \$4,000,000. The amount of this limitation shall be reviewed annually by the Legislature to see if a change is warranted.

The superintendent of the School Administrative District, with the approval of the school directors, may provide conveyance for adults to and from adult education programs.

Notwithstanding any other provision of law, expenditures for bus purchases approved by the commissioner shall not be included within expenditure limitations placed on administrative units by other sections of this Title. The commissioner is directed to encourage administrative units, whenever possible, to pay for the cost of new buses from current funds rather than from short-term loans.

Sec. 4. 20 MRSA § 302, last ¶, first sentence, as repealed and replaced by PL 1969, c. 140, is repealed.

Sec. 5. 20 MRSA § 302, as last amended by PL 1977, c. 24, § 4, is further amended by adding at the end the following new paragraphs:

The school directors shall determine their compensation, not less than \$10 and not to exceed \$25, for the services for each board meeting that each attends. Whenever the directors vote to increase their compensation they shall submit the matter to the legal voters in the municipalities which comprise the district. Upon notification by the directors, the municipal officers of the municipalities shall, at the next regular or special town meeting or city election, as the case may be, prepare a ballot for the purpose of voting in favor of or opposition to the proposed increase, and the question shall be in the following form:

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

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

Sec. 6. 20 MRSA § 305, as last amended by PL 1977, c. 690, § 5-A, is further amended by inserting after the 2nd paragraph the following new paragraph:

If a majority of the voters in the administrative units approve of an alternate method of sharing costs, then such method shall be used in sharing all future costs or assessments that may thereafter be authorized by the voters, except local leeway. The clerks of the municipalities voting on the question of the alternate method of sharing costs shall make a return to the State Board of Education in

such form as the board shall determine. If the board finds that a majority of the residents within each of the municipalities involved voting on the question of the method of sharing costs have voted in the affirmative, the board shall make a finding to that effect, record the same upon its records and certify its findings to the commissioner. If the vote of the administrative units is in the affirmative, the commissioner shall issue a certificate certifying that costs are to be shared in accordance with the plan approved by the voters.

**Sec. 7.** 20 MRSA § 305, 4th ¶, beginning with the words "If a majority of the voters in the administrative units approve of an alternate," as enacted by PL 1967, c. 483, § 3, is repealed.

**Sec. 8.** 20 MRSA § 1055, 3rd sentence, as enacted by PL 1969, c. 178, § 2, is amended to read:

The school committee or school directors of an administrative unit shall on or before ~~September 1st~~ **November 1st** of each year furnish the commissioner satisfactory proof that books, accounts, financial documents and reports for the fiscal year preceding have been examined and found to be in a satisfactory and accurate condition with proper vouchers on file, said audit to be made by the State Department of Audit or by individuals or firms recognized as competent auditors by training and experience or by qualified public accountants.

**Sec. 9.** 20 MRSA § 1289, 2nd sentence is repealed as follows:

~~The school directors of any school administrative district may enter into similar contracts~~

**Sec. 10.** 20 MRSA § 1454, first sentence is amended to read:

Any youth whose parent or legal guardian maintains a home for his family in the unorganized territory of this State and who may be judged by the commissioner qualified to enter an approved secondary school may attend any such school ~~in the State~~ to which he may gain entrance by permission of those having charge thereof.

**Sec. 11.** 20 MRSA § 1460, as amended by PL 1969, c. 433, § 40, is further amended to read:

#### **§ 1460. Census before privileges provided**

Before school privileges are provided in accordance with sections 1451 to 1457 for a child or children in any unorganized unit, it shall be the duty of the commissioner through his agents to procure returns showing the number of persons, including the names and ages of those between 5 and 20 years **who have not completed the 12th grade**, resident therein, together with such other information as he may deem necessary, and similar returns shall be required by him annually thereafter on the first day of April, or corrected to the first day of April, as long as school privileges are so provided.

**Sec. 12. 20 MRSA § 2244, first sentence**, as amended by PL 1973, c. 571, § 72, is further amended to read:

Each student shall enter into an agreement with the Commissioner of Educational and Cultural Services that after the completion of his internship ~~or~~, residency, **obligated public health service or armed forces service** he will enter upon the practice of osteopathic medicine in this State and continue in such practice for a period of one year for each \$2,000 of loan granted and utilized.

**Sec. 13. 20 MRSA § 2273, sub-§ 2**, as repealed and replaced by PL 1977, c. 703, § 3, is amended to read:

**2. State capitation payment.** For the purposes of this chapter, the state capitation payment is the ~~difference between the total~~ amount agreed upon between the State and the institution for the purchase of the student space ~~tuition plus state capitation, less the amount of tuition paid by the student.~~

**Sec. 14. 20 MRSA § 3472, sub-§ 6**, as last amended by PL 1977, c. 690, § 12-B, is further amended to read:

**6. Local funds nonreimbursable, chapter 515.** Notwithstanding any other statute to the contrary, the **initial** local share of school construction projects shall not be considered education costs for purposes of reimbursement in any way under chapter 515. Expenditures for the state and local share of school construction projects including gifts shall be considered as outside any limit on expenditures by local units under chapter 515.

**Sec. 15. 20 MRSA § 3473, 2nd ¶, first sentence**, as enacted by PL 1977, c. 563, § 7, is amended to read:

No unit shall 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 ~~and the Department of Environmental Protection.~~

**Sec. 16. 20 MRSA § 3483, sub-§ 1**, as amended by PL 1977, c. 690, § 13, is further amended to read:

**1. Approval of plans and specifications.** The plans and specifications of a school construction project or a minor capital outlay project with an estimated cost of \$25,000 **or more** prepared by a building committee shall include suitable provision for the health, welfare and safety of the persons who will utilize the project. The plans and specifications shall be approved by the Department of Finance and Administration, Bureau of Public Improvements; Department of Educational and Cultural Services; Department of Human Services; **and the State Fire Marshal** ~~Department of Public Safety and the Department of Environmental Protection~~ before they may be accepted by the administrative unit's governing body. Any changes in the plans and specifications must be approved by the Department of Educational and Cultural Services.



**Sec. 17.** 20 MRSA § 4743, sub-§ 14, first sentence, as enacted by PL 1977, c. 625, § 8, is amended to read:

“Minor capital costs” shall include all costs which are related to maintenance of plant and minor remodeling and site development not in conjunction with a construction project and shall be part of operating costs.

**Sec. 18.** 20 MRSA § 4743, sub-§ 16-A is enacted to read:

**16-A. Reimbursement rate.** “Reimbursement rate” for all programs contained in the basic education allocation is defined as the state allocation divided by the state-local allocation, expressed as a percentage. A state-local allocation shall include each unit’s share of vocational region debt service, if any.

**Sec. 19.** 20 MRSA § 4744, sub-§ 1, ¶ K, as enacted by PL 1977, c. 625, § 8, is amended to read:

**K.** Costs of reimbursement for private school transportation services;

**Sec. 20.** 20 MRSA § 4744, sub-§ 1, ¶ L, as enacted by PL 1977, c. 625, § 8, is repealed as follows:

~~L. State expenditures for each of paragraphs C through K;~~

**Sec. 21.** 20 MRSA § 4748, sub-§ 4, ¶ C, as enacted by PL 1977, c. 625, § 8, is amended to read:

**C.** An administrative unit’s state subsidy for special education tuition and board, in the state’s fiscal year 1979 1980, 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~~ expended for special education tuition and board in the fiscal year 1979, whichever is less.

**Sec. 22.** 20 MRSA § 4748, sub-§ 7, ¶ D is enacted to read:

**D.** State allocations for vocational region debt service shall be computed as follows:

- (1) Each member 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 4743, subsection 16-A, for each member 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; and
- (3) The sum of the member unit’s state allocations for vocational region debt service shall be the region’s state allocation for debt service.

**Sec. 23.** 20 MRSA § 4748-A, as enacted by PL 1977, c. 625, § 8, and as amended by PL 1977, c. 690, § 14-A, is repealed.

**Sec. 24.** 20 MRSA § 4750, sub-§ 7, first and next to last sentences, as enacted by PL 1977, c. 625, § 8, are repealed.

**Sec. 25.** 29 MRSA § 2019, sub-§ 1, as last repealed and replaced by PL 1977, c. 78, § 168, is amended to read:

**1. Receiving or discharging passengers.** All school bus operators shall activate the system of flashing red lights at least 100 feet before any stop is made to receive or discharge its passengers and these lights shall be continually displayed until after the bus has received or discharged its passengers.

**Sec. 26.** 29 MRSA § 2019, sub-§ 4, as last repealed and replaced by PL 1977, c. 78, § 168, is amended to read:

**4. Use of flashing lights restricted.** A school bus operator shall not use the system of red flashing lights on a school bus for any purpose other than controlling traffic in connection with the stopping of that bus for the purpose of receiving or discharging school children.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 28, 1980

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## CHAPTER 671

H. P. 831 — L. D. 1038

### AN ACT to Provide for County Self-government.

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

**Sec. 1.** 30 MRSA § 152 is amended to read:

**§ 152. Quorum**

~~Two~~ A majority of the commissioners constitute a quorum. When ~~only one~~ attends, ~~he fewer attend,~~ they may adjourn to a convenient time and place. When no commissioner attends, the clerk may adjourn as provided in Title 4, section 112.

**Sec. 2.** 30 MRSA § 1501, last sentence, as amended by PL 1979, c. 127, § 173, is repealed as follows: