

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2009

S. P. 636

In Senate, January 19, 1976

Referred to the Committee on Education. Sent down for concurrence and 12,000 copies ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Huber of Cumberland.

Cosponsor: Senator Corson of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT to Provide that the Legislature Establish Total Cost of Education and to Provide Equal Support for all Public School Students.

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

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

Whereas, the following legislation is vitally necessary to prevent undue hardship on those Maine citizens who are vitally interested in educating the youth of the State; 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 c. 512-A is enacted to read:

CHAPTER 512-A

EDUCATION FINANCING LAW OF 1976

§ 3741. Intent

It is the intent of the Legislature to limit the burden of education costs in public schools which are borne by the uniform property tax to no more than

50% of the basic education allocation and to provide at least 50% of the basic education allocation from state general fund revenue sources other than the uniform property tax.

It is further the intent of the Legislature to finance the uniform property tax share through a uniform property tax rate applied to all administrative units alike.

It is further the intent of the Legislature that the basic education allocation, as annually established by the Legislature, shall be an amount sufficient to meet the level of actual education costs in the year immediately prior to the year of allocation.

It is further the intent of the Legislature to reduce the education costs in the nonprofit private schools of this State by reducing such costs to the extent and in the manner permitted by section 3746, subsection 10.

§ 3742. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. Year. "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year.
2. Base year. "Base year" means the 2nd year immediately prior to the year of allocation of funds.
3. Elementary grades. "Elementary grades" shall include a childhood educational program, as defined by section 859, through grade 8.
4. Secondary grades. "Secondary grades" shall mean grades 9 through 12.
5. Elementary or secondary operating costs. "Elementary or secondary operating costs" shall include all costs, except transportation costs, community service costs, major capital costs and debt service costs, reduced by tuition receipts, expenditures from all federal revenue sources except for amounts received under the provisions of public law 874, and reduced by expenditures for special and vocational education programs as defined in subsections 8 and 9. Operating costs shall not include the costs of maintaining the Governor Baxter State School for the Deaf, the Boys Training Center, the Stevens School, Schools in the Unorganized Territories as defined by section 1451, and the Indian schools operated pursuant to Title 22, section 4719.
6. 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.
7. 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. 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.

8. Special education. "Special education," for subsidy purposes only, shall include the costs of certified teachers, assistants and aides or persons contracted to perform a special education service, including the costs of tuition and board to other schools for programs which have been approved by the commissioner.

9. Vocational education. "Vocational education," for subsidy purposes only, shall mean training in trade, industrial, agricultural, technical and service occupations. It shall not include business education, consumer education or home economics programs. Subsidy for vocational education shall be limited to the costs of directors, certified teachers, assistants and aides, plus the costs of instructional materials which are unique to teaching a specific skill and the costs of equipment as approved by the Bureau of Vocational Education and the commissioner.

10. Debt service costs. "Debt service costs" for subsidy purposes shall include:

- A. Principal and interest costs for major capital projects approved prior to the effective date of this Act;
- B. That portion of the tuition costs applicable to the insured value factor computed under section 1292 and as computed for elementary school tuition purposes; and
- C. Lease costs for school buildings when the leases have been approved by the commissioner.

11. Major capital costs. "Major capital costs" shall be approved by the State Board of Education and shall include all costs which are related to new construction, repairs, expansion, acquisition or alteration of any building or of any undeveloped land used or useful for school purposes and the costs of furnishings and equipment. Total major capital costs approved by the State Board of Education during any single year shall not exceed the limitation established by the Legislature in section 3745.

12. Minor capital costs. "Minor capital costs" shall include all costs which are related to repairs or alterations of any building or of any undeveloped land used or useful for school purposes and the cost of furnishings and equipment when such costs are financed out of the unit's operating budget. Minor capital costs shall not include construction of new buildings or the purchase of land. All minor capital costs shall be a part of operating costs. Operating costs for the year 1974-75 shall include a minor capital cost amount limited to \$10 per pupil.

13. Actual education costs. "Actual education costs" shall mean the total of the following:

- A. Elementary operating costs. These costs shall be computed by multiplying the average number of resident elementary pupils in all units on April 1st and October 1st of the calendar year immediately prior to the year

of allocation of funds by the state average elementary per pupil operating costs as defined in section 3742, subsection 6;

B. Secondary operating costs. These costs shall be computed by multiplying the average number of resident secondary pupils in all units on April 1st and October 1st of the calendar year immediately prior to the year of allocation of funds by the state average secondary per pupil operating costs as defined in section 3742, subsection 7;

C. Costs of special education programs;

D. Costs of vocational education programs;

E. Transportation costs;

F. Debt service costs;

G. Major capital costs;

H. Cost of undue hardship cases in special education tuition;

I. Cost of unusual enrollment adjustments;

J. Cost of geographic isolation adjustments; and

K. Costs of reimbursement for private school transportation.

The costs for items C, D, E, F and G shall be the reported expenditures for the base year.

14. Basic education allocation. "Basic education allocation" shall mean the amount for all public education programs established by the Legislature under section 3745.

15. Basic elementary per pupil operating allocation. "Basic elementary per pupil operating allocation" shall mean the allocation established by the Legislature in section 3745 for the purpose of computing unit allocations under section 3746.

16. Basic secondary per pupil operating allocation. "Basic secondary per pupil operating allocation" shall mean the allocation established by the Legislature in section 3745 for the purpose of computing unit allocations under section 3746.

§ 3743. Notification of actual education costs and the commissioner's recommendation

1. Notification of actual education costs. The commissioner shall annually, prior to January 15th, notify the Legislature and the Bureau of the Budget of actual education costs as defined. Such notification shall include, but not be limited to, the following items:

A. Elementary operating costs;

B. Secondary operating costs;

C. Special education costs;

- D. Vocational education costs;
- E. Transportation costs;
- F. Debt service costs;
- G. Major capital costs;
- H. Cost of undue hardship cases in special education tuition;
- I. Cost of unusual enrollment adjustments;
- J. Costs of geographic isolation adjustments;
- K. Costs of reimbursement for private school transportation;
- L. State expenditures for each of items C to K for the base year;
- M. Local and state funds raised and total moneys expended under section 3746, subsection 4; and
- N. Local funds raised and expended under section 3747 for each of items A to K for the base year.

Each administrative unit shall provide the commissioner with such information as he reasonably deems necessary to carry out this chapter according to reasonable time schedules as established by the commissioner.

2. Commissioner's recommendation. The commissioner, with the approval of the State Board of Education, shall also certify annually, prior to February 1st, to the Legislature and the Bureau of the Budget his recommendation for the allocation to each of items A to K of subsection 1.

The costs of section 3742, subsection 13, paragraphs C, D, E and F, shall be computed by adding the actual costs for the first half of the year immediately prior to the year of allocation of funds to the total estimated costs that will be incurred for the 2nd half of the same year. The commissioner shall have the authority to amend any estimate where he believes such estimate to be unreasonable.

If an administrative unit fails to submit the necessary information required in this section and in subsection 1 within the time schedule, the commissioner shall estimate that unit's education costs.

This recommendation 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.

§ 3744. Governor's recommendation

The Bureau of the Budget shall prior to February 15th certify to the Legislature the recommendation of the Governor for the allocations for section 3743, subsection 1, paragraphs A to K. The Governor's recommendation may be to reduce, increase or approve any of the allocations recommended by the commissioner.

§ 3745. Allocations and appropriation by the Legislature

The Legislature shall annually, prior to April 1st, enact legislation which shall:

1. Establish the basic elementary per pupil operating allocation;
2. Establish the basic secondary per pupil operating allocation;
3. Establish the basic education allocation for each of the following items:
 - A. Elementary operating allocation;
 - B. Secondary operating allocation;
 - C. Special education allocation;
 - D. Vocational education allocation;
 - E. Transportation allocation:
 - (1) Operating costs;
 - (2) Purchase of buses;
 - F. Debt service allocation;
 - G. Establish the appropriation for major capital costs and establish the limitation of approvals by the State Board of Education;
 - H. Contingent account for undue hardship cases in special education tuition;
 - I. Contingent account for unusual enrollment adjustments;
 - J. Allocation for geographic isolation adjustments; and
 - K. Allocation for reimbursement for private school transportation;
4. Appropriate the necessary funds for the basic education allocation;
5. Appropriate the necessary funds to meet the state's share of local leeway as provided by section 3746, subsection 4, and
6. Establish the uniform property tax rate. This rate shall produce an amount not to exceed 50% of the basic education allocation as established by the Legislature.

§ 3746. Computation and allocation of education subsidies

1. Computation. The allocation of funds to each administrative unit shall be computed by the commissioner as follows:

- A. Multiply the average number of resident elementary pupils in the unit on April 1st and October 1st of the calendar year prior to the year of allocation of funds by the basic elementary per pupil operating allocation, as established in section 3745;

B. Multiply the average number of resident secondary pupils in the unit on April 1st and October 1st of the calendar year prior to the year of allocation of funds by the basic secondary per pupil operating allocation, as established in section 3745;

C. The unit allocation for each of the following items shall be the basis for 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 and if the Legislature decreases the commissioner's recommendation for any item the unit allocation shall be decreased by the same percentage. 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 costs and not to the purchase of buses.

(1) Special education.

(a) Expenditures for special education programs operated or contracted for by the administrative unit and expenditures for special education tuition or board, or both. Medical costs shall not be allowable as a part of a tuition charge. The allocation for special education tuition or board, or both, for the fiscal year ending June 30, 1977 shall not exceed actual expenditures for that fiscal year.

(b) There shall be established within the department a contingent account for the purpose of relieving undue hardship in any administrative unit for special education tuition cases. The commissioner shall adjust state aid if the hardship case requires a total school budget increase in excess of 10% and if the special education tuition pupils increase by more than 20%. The commissioner shall adjust state aid to each unit that qualifies for a hardship grant within the limits of the funds appropriated to the contingent account, which shall be a continuing account. The amount of the contingent account shall be reviewed annually by the Legislature to see if a change is warranted.

(2) Vocational education.

(3) Transportation of pupils, including the purchase of buses.

(4) Debt service. Debt service distributed in 1976-77 shall not exceed the actual costs incurred during this same year.

2. Basis for allocation. Total the amount computed and estimated for subsection 1, paragraph A to C. The sum thus obtained shall become the basis for allocation to the unit, subject to adjustments as defined under subsection 3. The commissioner shall authorize payments of aid to the various administrative units in the amount of the subsidy allocation and any adjustments in such allocation within the periods required in section 3455 and sections 3457 to 3460.

3. Adjustments for allocation. Adjustments to the allocation as computed in subsections 1 and 2 shall be made as follows.

A. The State Board of Education shall determine geographic isolation and may declare a unit to be geographically isolated when that 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. If the unit is declared to be geographically isolated by the State Board of Education, the board shall adjust the per pupil allocation to that unit to meet the educational needs of that unit, except that such an adjustment shall not exceed the amounts expended by that unit which were in excess of the state average elementary and secondary expenditures of the year immediately prior to the year of allocation of funds. Such an adjusted allocation shall be further increased by the same percentage increase that is applied to the operating costs, as defined in section 3742, subsections 6 and 7, of all other units when adjusting the costs of the year immediately prior to the base year period to determine the allocation.

B. When an administrative unit enrolls pupils who reside on land under control of the Federal Government, or any agency thereof, or on a Federal Military Reservation, such pupils shall be considered as resident pupils for purposes of this chapter. The allocation to such a unit shall be adjusted by subtracting therefrom, after all other adjustments under this section have been made, the Federal Public Law 874 receipts in the same proportion that total local revenues under the state equalization program are of total local revenues for education in the unit. In adjusting the allocation under the previous sentence, 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 expenditures per pupil, as computed by the Federal Government, times the number of such students in the unit.

C. A unit may qualify for an unusual enrollment subsidy adjustment whenever the increase in pupils between October 1st of the current year 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 3% increase shall be multiplied by the appropriate per pupil allocation to determine the allowable adjustment. All units shall be prorated if necessary to remain within the sum appropriated for such an adjustment. Local administrative units are authorized to expend any funds received through this adjustment without calling for a special meeting of the local legislative body. There is established within the department a Contingent Account for unusual enrollment subsidy adjustments.

4. Additional expenditures. The legislative body of any administrative unit may, in addition to the unit's allocation under this section, authorize an additional expenditure for either elementary or secondary pupils, or both, not to exceed a local appropriation of one mill on the state valuation of the unit in effect on January 1st of the same calendar year and one mill on the state valuation in effect on July 1st of the same calendar year. Under this subsection, an administrative unit is authorized to appropriate a maximum of \$90 per pupil per year for the pupils specified in subsection 1. The maximum levy on a municipality within an administrative unit shall not exceed \$45 per pupil per

mill levied on that municipality. If the authorization for additional funds by an administrative unit under this subsection exceeds the maximum levy for any municipality within such 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 such maximum levy of any municipality within the unit. If the additional school levy authorized under this subsection fails to produce \$45 per pupil per mill levied, 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 \$45 per pupil per mill. Said sum shall be paid to the administrative unit no later than the last month of the unit's fiscal year.

The funds appropriated under this section shall be called optional local appropriations with state participation. The purpose of optional local appropriations is to provide that all administrative units may raise and appropriate at least \$45 per pupil per mill to supplement basic education allocations, when necessary in the judgment of the local administrative units.

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 will authorize to be expended from optional local appropriations for school purposes (Recommended \$), and to see if the municipality or district will raise and appropriate the local share of \$

5. School aid payments. School aid 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.

6. Construction aid payments. Construction aid payments by the State to the administrative unit shall be made in accordance with the subparagraphs of the 3rd paragraph of section 3460. Such payments shall be made from a major capital construction fund which shall be established by the Legislature and which shall be a nonlapsing fund.

7. Appeals. The computation of aid for any unit may be appealed in writing to the State Board of Education by the school committee or board of directors of any school 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.

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

9. Balance of allocations. Balances of allocations at the end of the unit's fiscal year shall be carried forward to meet the next year's school needs in an amount not to exceed 10% of the total state and local allocation of the year

just completed. Balances in excess of 10% of the total state allocation will be deducted from the state allocation for the subsequent year.

10. Reimbursement for transportation. Notwithstanding any other provision of this chapter, the commissioner shall reimburse 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.

11. Notification of allocation. The commissioner shall annually, on or before April 15th, notify the municipal officers of each municipality and the officers of each administrative unit of the amount allocated on a monthly basis to that municipality or unit pursuant to this section. When adjustments are made in the subsidy allocation, the commissioner shall notify municipal and school officers of such adjustments.

§ 3747. Local funds

1. Local addition to allocation of State funds. In addition to the allocation of state funds provided by this chapter and such appropriation that may be made under section 3746, subsection 4, any administrative unit may raise and expend any further funds for educational purposes.

2. Bonds or notes. No major capital projects approved after the effective date of this section shall be financed by the sale of the administrative unit's notes or bonds.

3. —exceptions. In the event the administrative unit undertakes major capital projects without the approval of the State Board of Education, bonds or notes may be issued by the administrative unit. Such projects shall meet the requirements of all other statutes. Such projects shall not be reimbursed with state funds.

Sec. 2. 20 MRSA § 3457, TABLE II, as last amended by PL 1975, c. 272, § 7, is further amended by inserting after the first paragraph the following new paragraph:

All construction aid on projects approved after the effective date of this section shall be financed from General Fund revenues and not from the sale of state notes or bonds.

Sec. 3. 36 MRSA §§ 451 - 453, as last amended by P&SL 1975, c. 78, § 21, are repealed and the following enacted in place thereof:

§ 451. Rate of tax

1. Property tax for expenses of local and State Government. For necessary expenses of local and State Government, a tax assessed at the rate of $9\frac{1}{4}$ mills for the fiscal year ending June 30, 1976, $10\frac{3}{4}$ mills for the fiscal year ending June 30, 1977, $12\frac{1}{4}$ mills for the fiscal year ending June 30, 1978, and $13\frac{3}{4}$ mills for the fiscal year ending June 30, 1979, and every year thereafter upon each municipality and the unorganized territory. In each municipality, the tax assessed under this subsection shall be paid when collected to the treasurer thereof to be by him disbursed for necessary expenses of local government as determined or appropriated by the legislative body of such municipi-

pality within the purposes specified in Title 30. The tax assessed under this subsection upon the unorganized territory shall be paid to the State.

2. Uniform property tax for financing education. Pursuant to the Maine Constitution, Article VIII, and in addition to subsection 1, a uniform property tax for financing education is assessed which shall be determined as follows.

The Legislature shall annually, prior to April 1st, enact legislation establishing the total basic education allocation and establishing the uniform property tax rate. The rate so determined shall be applied to the state valuations of each municipality and property in the unorganized territory.

3. Determination. The State Tax Assessor shall determine the amount to be assessed on each municipality and the unorganized territory. In any event, such rate shall never exceed whatever shall from time to time be the weighted average municipal tax rate. The "weighted average municipal tax rate" means the total municipal property taxes levied statewide for the previous year, as determined by the State Tax Assessor from the annual return of municipalities in effect for the previous year. The valuation as determined by the State Tax Assessor, as set forth in the statement filed by him as provided by section 305, subsection 1, shall be the basis for the computation and apportionment of the tax assessed.

The method for determining the amount of state tax from each municipality in a calendar year is to add the state tax for the period January 1st to June 30th of the same calendar year to the state tax for the period July 1st to December 31st of the same calendar year. The state tax as determined for a fiscal year is to be divided by 2 to establish the amount of tax for the period July 1st to December 31st or January 1st to June 30th.

The State Tax Assessor shall, before July 1st annually, determine the amount of state tax to be assessed and collected for the year in the unorganized territory. The rate of taxation in the unorganized territory is to be determined by dividing the amount of state tax by the total valuation of taxable property in the unorganized territory on April 1st of the same year.

§ 452. Assessment of state property tax

On July 1st annually the state tax described in section 451 is to be assessed for the fiscal year ending June 30th of the following calendar year.

As soon as practicable after April 1st annually, the State Tax Assessor shall certify to each municipality the amount of state tax due under section 451 in the current calendar year. The State Tax Assessor shall send the certification to the municipal officers of each municipality requiring them to assess the sum so certified, according to the law for the assessment of taxes and add the amount of such tax to the amount of county and municipal taxes to be by them assessed in their municipality.

§ 453. Payment of state tax by municipalities

The certification made pursuant to section 452 shall require the municipal officers to issue their warrant, requiring the collectors of their municipality to collect and pay to the treasurer of their municipality the sums against

said municipality required by this subchapter. Monthly, the municipal treasurer shall pay to the Treasurer of State $1/12$ of the uniform property tax for the present fiscal year ending June 30th. Said payments shall be paid on or before the 20th day of each month.

Sec. 4. 20 MRSA c. 510, as amended, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1976.

STATEMENT OF FACT

The purpose of the bill is:

1. To provide for funding no more than 50% of education costs by the uniform property tax;

2. Provides for notification of actual education costs for the most recent school year by the Committee on Educational and Cultural Services;

3. Provides for the commissioner's recommendation for education costs as updated to the year prior to the year of allocation of funds;

4. Provides that the Legislature allocate and appropriate the necessary funds and establish the mill rate;

5. Provides that the Legislature establish the per pupil primary and secondary basic education allocation;

6. Distributes the allocation equally to all municipalities on a per pupil basis as adjusted by special education, vocational education, transportation and debt service;

7. Provides for adjustment of allocation for federally impacted units, geographical isolation units and unusual enrollment increases;

8. Beyond the state's allocation, an administrative unit may expend local funds beyond state and local appropriations but with state participation;

9. Provides that any administrative unit may raise and expend funds in addition to the allocation of state funds and the optional local appropriations provided in item 8;

10. Provides that school construction shall not be financed by bonds or notes but from general fund revenues; and

11. Will substantially reduce the possibility of future deficits in the area of education financing.