

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2011

H. P. 1844

House of Representatives, January 19, 1976

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

EDWIN H. PERT, Clerk

Presented by Mr. Lynch of Livermore Falls.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT to Revise the Laws Relating to Funding of Public Schools.

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Sec. 1. 20 MRSA § 3711, last ¶, as last repealed and replaced by PL 1975, c. 272, § 14, is repealed and the following enacted in place thereof:

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 3713, subsection 10.

Sec. 2. 20 MRSA § 3712, sub-§ 2, next to last sentence, as enacted by PL 1973, c. 556, § 1 and as amended by PL 1975, c. 272, § 15, is repealed and the following enacted in place thereof:

Average elementary per pupil operating costs shall be computed by dividing elementary operating costs for the base year, adjusted by the state average percentage change in total operating costs experienced during the 2 years immediately prior to the base year period, by the average number of resident elementary pupils, excluding those students in special education programs, on October 1st and April 1st in the base year.

Sec. 3. 20 MRSA § 3712, sub-§ 3, 2nd and last sentences, as enacted by PL 1973, c. 556, § 1 and as amended by PL 1975, c. 272, § 15, are repealed and the following enacted in place thereof:

Average secondary per pupil operating costs shall be computed by dividing secondary operating costs for the base year, adjusted by the state average percentage change in total operating costs experienced during the 2 years immediately prior to the base year period, by the average number of resident secondary pupils, excluding full-time students in special and vocational education programs, 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.

Sec. 4. 20 MRSA § 3712, sub-§ 6-A is enacted to read:

6-A. Base year. Base year means the 2nd year immediately prior to the year of allocation of funds.

Sec. 5. 20 MRSA § 3712, sub-§§ 7-A - 7-D, as enacted by PL 1975, c. 272, § 17, are repealed.

Sec. 6. 20 MRSA § 3712, sub-§ 8, 2nd sentence, as enacted by PL 1973, c. 783, § 30, is amended to read:

Whenever a community school district is organized to educate part of the grades between kindergarten and grade 12, the department shall for the purposes of computing subsidies under sections 3711 to 3713, divide the state valuation adjusted to 100% of each member municipality between that municipality and the community school district in direct proportion to the average number of resident pupils on October 1st and April 1st of the preceding base year.

Sec. 7. 20 MRSA § 3712, sub-§§ 10-12, as last repealed and replaced by PL 1975, c. 272, §§ 18 and 19, are repealed and the following enacted in place thereof:

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.

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; however, operating costs for the year 1974-75 shall include a minor capital cost amount limited to \$10 per pupil.

Sec. 8. 20 MRSA § 3712, sub-§ 14 is enacted to read:

14. Maintenance of effort. Maintenance of effort is that local appropriation needed to maintain the unit's per pupil cost at the level expended in the year immediately prior to the year of allocation of funds.

Sec. 9. 20 MRSA § 3713, first ¶, first sentence, as enacted by PL 1973, c. 556, § 1, is repealed and the following enacted in place thereof:

The commissioner, with the approval of the State Board of Education, shall annually, prior to January 15th, certify to the Bureau of the Budget the total education costs as defined. The Bureau of the Budget shall forthwith certify said sum to the Legislature with the recommendation of the Governor. The Governor's recommendation may be either to reduce, increase or to approve said sum as certified.

Sec. 10. 20 MRSA § 3713, first ¶, 2nd and 3rd sentences, as enacted by PL 1973, c. 556, § 1, are amended to read:

This sum should reflect the ~~board's~~ commissioner's best estimate as to changes in pupil enrollment, economic factors and other considerations which might effect a change in the costs of education. The ~~board~~ commissioner shall be ever conscious of the need for prudent restraint in educational financing.

Sec. 11. 20 MRSA § 3713, first ¶, last sentence, as enacted by PL 1973, c. 556, § 1, is repealed as follows:

~~The Bureau of the Budget shall include this recommended amount in the Part I budget~~

Sec. 12. 20 MRSA § 3713, as enacted by PL 1973, c. 556, § 1 and as last amended by PL 1975, c. 510, § 36, is further amended by inserting after the first paragraph the following new paragraph:

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

Sec. 13. 20 MRSA § 3713, sub-§ 1, ¶ C, first sentence, as repealed and replaced by PL 1975, c. 272, § 21, is repealed and the following enacted in place thereof:

Estimate the following expenditures by computing the actual costs for the first half of the year immediately prior to the year of allocation of funds and by adding thereto each administrative unit's estimate of the actual costs that will be incurred by that unit for the 2nd half of the year immediately prior to the year of allocation of funds.

Sec. 14. 20 MRSA § 3713, sub-§ 1, ¶ C, sub-¶ (1), as last repealed and replaced by PL 1975, c. 272, § 21 and as amended by PL 1975, c. 510, § 32, is further amended to read:

(1) 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 the actual expenditure for that fiscal year.

Sec. 15. 20 MRSA § 3713, sub-§ 1, ¶ C, sub-¶ (1-A) is enacted to read:

(1-A) There shall be appropriated to the department the sum of \$200,000 as 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%, or the unit has already appropriated toward total education costs an amount exceeding the total allocation under this section, supplemented by any amounts raised under subsection 3, paragraph B and subsection 11. 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 Legislature shall each year appropriate such amounts to the contingent account so that the maximum of \$200,000 shall be maintained. The amount of the contingent account shall be reviewed annually by the Legislature to see if a change is warranted.

Sec. 16. 20 MRSA § 3713, sub-§ 1, ¶ C, sub-¶ (4), as last repealed and replaced by PL 1975, c. 272, § 21, is repealed and the following enacted in place thereof:

(4) Expenditures for debt service for the year immediately prior to the year of allocation of funds. Aid distributed in 1976-77 shall not exceed the actual costs incurred during the same year.

Sec. 17. 20 MRSA § 3713, sub-§ 1, ¶ D, as last repealed and replaced by PL 1975, c. 272, § 21, is repealed as follows:

~~D. Estimate the costs of special education tuition and board, or both, to be paid by the unit in the year of allocation. Medical costs shall not be allowable as a part of a tuition charge~~

Sec. 18. 20 MRSA § 3713, sub-§ 1, ¶ E, as last repealed and replaced by PL 1975, c. 272, § 21, is repealed as follows:

~~E. Estimate the costs of debt service payable in the year of allocation, other than for that part of the tuition costs applicable to the insured value factor computed under section 1292 and as computed for elementary school tuition purposes, and other than lease costs for school buildings~~

Sec. 19. 20 MRSA § 3713, sub-§ 2, 2nd ¶, first sentence, as repealed and replaced by PL 1975, c. 272, § 23, is amended to read:

The school tax certified by the State Director of Property Taxation Tax Assessor on or after April 1st shall be used in determining the payments, if any, to the units for the subsequent year.

Sec. 20. 20 MRSA § 3713, sub-§ 3, ¶ B, last ¶, as enacted by PL 1975, c. 272, § 25, is amended to read:

Article : To see what sum the municipality or district will raise and appropriate for maintenance of effort to maintain per pupil school operating costs at the same level as ~~costs for the base school year, 1973-74~~ the per pupil costs for the year immediately prior to the year of allocation of funds.

Sec. 21. 20 MRSA § 3713, sub-§ 3, ¶ C, 2nd sentence, as amended by PL 1973, c. 783, § 35, is further amended to read:

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 ~~previous~~ year immediately prior to the year of allocation of funds.

Sec. 22. 20 MRSA § 3713, sub-§ 3, ¶ C, last sentence, as enacted by PL 1973, c. 783, § 35, is repealed and the following enacted in place thereof:

Such an adjusted allocation shall be further increased by the same percentage increase that is applied to the operating cost, as defined in section 3712, subsections 2 and 3, of all other units when adjusting the costs of the year immediately prior to the base year period to determine the allocation.

Sec. 23. 20 MRSA § 3713, sub-§ 3, ¶ F, as enacted by PL 1975, c. 272, § 28, is amended to read:

F. If the amount certified to the State ~~Director of Property Taxation Tax Assessor~~ by the Legislature under Title 36, section 451, is not the same as the total education costs certified by the commissioner, then all allocations shall be adjusted as directed by the Legislature, or if the Legislature does not direct how such adjustment is to be performed, then all allocations shall be adjusted pro rata.

Sec. 24. 20 MRSA § 3713, sub-§ 9-A is enacted to read:

9-A. 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.

Sec. 25. 20 MRSA § 3712, sub-§ 11, as enacted by PL 1975, c. 272, § 31, is amended by inserting after the 2nd sentence the following:

The maximum levy on a municipality within an administrative unit shall not exceed \$50 per pupil per mill levied on that municipality.

Sec. 26. 20 MRSA § 3713, sub-§ 11, first ¶, next to last sentence, as enacted by PL 1975, c. 272, § 31, is repealed and the following enacted in place thereof:

If the additional school levy on an administrative unit authorized under this subsection fails to produce \$50 per pupil per mill, 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 \$50 per pupil per mill. 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.

Sec. 27. 20 MRSA § 3713, sub-§ 11, as enacted by PL 1975, c. 272, § 31, is amended by inserting after the first paragraph the following blocked paragraph:

If the Legislature does not appropriate moneys equal to the state's obligation for local leeway as voted by the administrative units, the commissioner shall have the authority to prorate such moneys.

Sec. 28. 20 MRSA § 3713, sub-§ 11, 3rd ¶, as enacted by PL 1975, c. 272, § 31, is amended to read:

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~~ administrative unit will authorize to be expended from local leeway for school purposes (Recommended \$ _____, and to see if the ~~municipality or district~~ administrative unit will raise and appropriate the local share of \$ _____.

Sec. 29. 20 MRSA § 3713, sub-§ 11, 3rd ¶, as enacted by PL 1975, c. 272, § 31, is amended by adding at the end the following new sentence:

If the administrative unit is a school administrative district or a community school district, the article shall state the amount which is to be levied on each municipality within the district as that municipality's share of the unit's appropriation.

Sec. 30. 20 MRSA § 3713, sub-§ 11, last ¶, first sentence, as enacted by PL 1975, c. 272, § 31, is amended to read:

No municipality administrative unit shall appropriate toward total education costs an amount exceeding the local total allocation under this section, supplemented by any amounts raised under subsection 3, paragraph B, and under subsection 11.

Sec. 31. 20 MRSA, § 3713, sub-§ 12, as enacted by PL 1975, c. 272, § 31, is repealed as follows:

12. Allocations shall be subsequently adjusted on December 31st and on June 30th of the year of distribution to reflect the actual costs of special education tuition and board, or both, paid by the unit

Sec. 32. 20 MRSA § 3713, sub-§ 13, as enacted by PL 1975, c. 272, § 31 and as amended by PL 1975, c. 510, § 36, is repealed as follows:

13. If any Administrative unit has raised the maximum local leeway, as authorized under subsection 11, such unit may appropriate additional funds as needed to maintain its average elementary or secondary per pupil operating costs at the same level as computed under section 3713, subsection 3, paragraph B

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 raise and appropriate for maintenance of effort to maintain per pupil school operating costs at the same level as the current year's per pupil costs

Recommended \$

Sec. 33. 20 MRSA § 3713, sub-§ 14, first sentence, as enacted by PL 1975, c. 510, § 30, is repealed and the following enacted in place thereof:

Any administrative unit without a pupil count for the calendar year immediately prior to the year of allocation may be permitted to appropriate from a subsidy allocation determined by the commissioner an amount of money not to exceed the average per pupil allocation of the State times the number of pupils, plus an amount for transportation to be approved by the commissioner.

Sec. 34. 20 MRSA § 3713, sub-§ 15 is enacted to read:

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

Sec. 35. ~~20~~ **MRSA § 3457, TABLE II**, as last amended by PL 1975, c. 272, § 7, is further amended by adding at the end the following new paragraph:

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

Sec. 36. ~~36~~ **MRSA § 451-453**, as repealed and replaced by PL 1975, c. 272, §§ 36 to 38 and as amended, are further amended to read:

§ 451. Rate of tax

For necessary expenses of local and State Government, a tax is assessed at the rate of ~~3 $\frac{7}{8}$ mills on the dollar applied to a 100% valuation for the period January 1st through June 30, 1975~~ $9\frac{1}{4}$ 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.

The tax assessed under this paragraph, in each municipality 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 municipality within the purposes specified in Title 30.

In addition to the above, a uniform property school tax is assessed which shall be determined as follows: ~~The Commissioner of Educational and Cultural Services, with the approval of the State Board of Education, shall annually, prior to January 15th, certify to the Bureau of the Budget the total education costs as defined. The Bureau of the Budget shall forthwith certify said sum to the Legislature with the recommendation of the Governor. The Governor's recommendation may be either to reduce, increase or to approve said sum as certified. The Legislature shall annually, prior to April 1st, certify by joint order the amount which it deems reasonably necessary for the support of public education to the State Director of Taxation Tax Assessor. If the Legislature fails to act, the Governor's recommendation shall automatically be certified to the State Director of Property Taxation~~

For the period July 1, 1974, through June 30, 1975, a uniform school tax rate is computed by dividing 25% of the amount certified by the commissioner for said period by the total 1973 state valuation. For the fiscal year ending June 30, 1976, and thereafter, a uniform school property tax rate is computed by dividing 50% of the amount certified by the Legislature for said periods by the total state valuation of all municipalities for the same periods. The rate so determined is to be adjusted upward to the nearest $\frac{1}{4}$ mill and shall be applied to the state valuations of each municipality and property in the unorganized territory.

The State ~~Director of Property Taxation~~ Tax Assessor shall determine the tax rate and 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

state-wide for the previous year, as determined by the State ~~Director of Property Taxation Tax Assessor~~ from the annual return of municipal assessors pursuant to section 383, divided by the state valuation of municipalities in effect for the previous year ~~adjusted to a 100% basis~~. The valuation as determined by the State ~~Director of Property Taxation 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 due in a calendar year is to add the state tax for the period January 1st to June 30 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 ~~Director of Property Taxation 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

~~In 1975 the state tax described in section 451 is to be assessed as of January 1, 1975 for the period January 1st through June 30, 1975. On July 1, 1975 and on each July 1st thereafter 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 ~~Director of Property Taxation Tax Assessor~~ shall certify to each municipality the amount of state tax due under section 451 in the current calendar year. The State ~~Director of Property Taxation Tax Assessor~~ shall send the certification to the municipal assessors 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 collector of their municipality to collect and pay to the treasurers 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 if the uniform school tax for the present fiscal year ending June 30th. Said payments shall begin on July 20, 1975 and shall be paid on or before the 20th day of each month. ~~The Commissioner of Educational and Cultural Services shall annually, on or before April 15th, notify the municipal officers of each municipality and the officers of each school district of the amount allocated on a monthly basis to that municipality or district pursuant to Title 20, section 3713. When adjustments are made in the subsidy allocation, the commissioner shall notify municipal~~

~~and school officers of such adjustments. For 1975 only, the notification of allocation shall be made on or before June 15th~~

The tax assessed under the first paragraph of section 451, in each municipality 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 municipality within the purposes specified in Title 30.

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

STATEMENT OF FACT

Section 1. More definitely defines aid for transportation of pupils to and from nonprofit private schools.

Sections 2, 3, 6, 13 19, 23 and 33. Clarify definitions and nonsubstantive changes.

Section 4. Defines base year.

Section 5. Repeals definitions 7-A to 7-D with one definition remaining. (see subsection 7 of section 3712 of Title 20) The common usage of words as defined by dictionary will be utilized.

Section 7. Clarifies debt service since bonding for major capital projects is eliminated; clarifies definition of major capital costs; and clarifies definition of major capital costs; eliminates construction and expansion of school buildings; does not include the purchase of land.

Section 8, 20 and 32. Require that an administrative unit must combine both its first and second maintenance of effort before local leeway becomes operative.

Sections 9 and 12. Place within Title 20 (education) sections which were in Title 36 (taxation), sections 451 and 453 (see section 36 of this bill).

Sections 10 and 11. Clarifies language in the light of changes made in section 9.

Sections 14 and 17. Reimburse special education tuition based on expenditures for the year immediately prior to the year of allocation of funds.

Section 15. Establishes a contingent account in the amount of \$200,000 in the department for undue hardship in special education tuition cases.

Sections 16 and 18. In allocation of funds to each unit, expenditures for debt service shall be for the year immediately prior to the year of allocation of funds.

Sections 21 and 22. Adjust the subsidy for geographically isolated units.

Sections 24, 26, 28 and 29. Place a ceiling on the maximum levy for any municipality within an administrative unit.

Section 27. Permits the commissioner to prorate if the Legislature fails to appropriate the state's obligation for local leeway.

Section 30. Amends the first sentence of the last paragraph of section 3713, subsection 11 to conform with the language of section 3713, subsection 1, paragraph C, subparagraph 1-A (see section 15 of this bill).

Sections 31 and 32. Repeal unnecessary provisions.

Section 34. Provides that no local bonds be issued to finance major capital projects.

Section 35. Provides that the state's aid for major capital projects shall be financed from General Fund revenues and not from bonds.

Section 36. Clarifies language in Title 36 (taxation) and repeals language which is inserted in Title 20 (education) (see sections 9 and 12 of this bill).