

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 2031**

H. P. 1873

House of Representatives, January 21, 1976

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

EDWIN H. PERT, Clerk

Presented by Mrs. Lewis of Auburn.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

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**AN ACT to Repeal and Replace the Present School Finance Law.**

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**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 basic education costs in public schools which are borne by the uniform property tax to no more than 50% of the basic education appropriation and to provide at least

50% of the basic education appropriation 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 appropriation, 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.

#### § 3742. Definitions

As used in this chapter, the following words shall, unless the context clearly requires otherwise, 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. **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 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.

8. **Special education.** "Special education," for subsidy purposes only, shall be limited to the costs of certified professionals, assistants and aides when such persons are employed or 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 certified professionals, 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, commencing with the year 1975-76 and thereafter.

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

A. Elementary operating costs;

B. Secondary operating costs;

C. Special education costs;

D. Vocational education costs;

E. Transportation costs;

F. Debt service costs and

**G. Major capital costs.**

The costs for items A through G shall be the reported expenditures for the base year.

14. Basic education appropriation. "Basic education appropriation" shall mean the amount appropriated for all public education programs as determined by the Legislature under section 3745, subsection 3.

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

16. Basic secondary per pupil operating rate. "Basic secondary per pupil operating rate" for allocation purposes shall mean the rate 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 request for funding**

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. State allocations for each of items A to G for the base year and

I. Local funds raised and expended under section 3747 for each of items A to G 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 request for funding. 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 request for funding in each of items A to G of subsection 1. This request for funding shall be based upon the 3rd paragraph of section 3741 and shall reflect the commissioner's best estimate as to changes in pupil enrollment, economic

factors, 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. The requested level of funding for section 3742, subsection 13, paragraphs C, D, E and F, may be computed by adding the actual expenditures 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.

§ 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 appropriations for section 3743, subsection 1, paragraphs A to G. The Governor's recommendation may be to reduce, increase or approve any of the funding levels requested by the commissioner.

§ 3745. Action by the Legislature

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

1. Elementary rate. Establish the basic elementary per pupil operating rate;
2. Secondary rate. Establish the basic secondary per pupil operating rate;
3. Levels of funding. Establish the level of funding for each of the following items.
  - A. Elementary operating ;
  - B. Secondary operating ;
  - C. Special education ;
  - D. Vocational education ;
  - E. Transportation ;
    - (1) operating costs ;
    - (2) purchase of buses ; and
  - F. Debt service ;
4. Level of state appropriation. Establish the level of state appropriation for major capital costs and establish the limitation of project approvals by the State Board of Education.
5. Basic education appropriation. Appropriate the necessary funds for the basic education appropriation as determined in subsection 3 and for major capital costs as established in subsection 4, and

6. Uniform property tax rate. Establish the uniform property tax rate. This rate shall produce an amount not to exceed 50% of the basic education appropriation as established by the Legislature.

§ 3746. Computation and allocation of education subsidies

1. Allocation of funds to each administrative unit. 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 rate 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 rate, as established in section 3745.

C. The unit allocation for each of the following items shall be the same amount as is contained in the commissioner's request for funding, except that if the Legislature increases the commissioner's request 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 request, the percentage of increase or decrease in the amount shall apply only to the operating costs and not to the purchase of buses.

- (1) Vocational education.
- (2) Transportation of pupils, including the purchase of buses.
- (3) Debt service.

Principal and interest costs for major capital projects approved prior to the effective date of this Act will be reimbursed in the amount of current year costs.

2. Computation. Total the amount computed and estimated for subsection 1, paragraphs 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 section 3457 to 3460.

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

A. 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 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 expenditure per pupil, as computed by the Federal Government, times the number of such students in the unit.

4. 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.

5. 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.

6. Money allocated for school purposes only. Notwithstanding any other public or private statute to the contrary, all money allocated for school purposes must be expended for school purposes only.

7. Balances to be carried forward. Balances of allocations at the end of the unit's fiscal year shall be carried forward to meet the next year's school needs.

8. Notification to municipalities. 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 to be 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. Major capital projects. In the event that an administrative unit undertakes major capital projects without the approval of the State Board of Education, such projects shall not be supported with state funds. Such projects shall meet the approval requirements of all other statutes.

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:



The percentage of state aid on all school construction projects approved after the effective date of this section shall be determined by dividing the median state valuation per pupil statewide by the state valuation per pupil of the administrative unit and multiplying the result by 50%. No administrative unit may qualify for more than 90% school construction aid. The median state valuation per pupil and the state valuation per pupil for each administrative unit shall be computed by the commissioner on July 1st each year based upon the state valuations then in effect and the number of resident pupils on October 1st and April 1st of the immediately preceding fiscal year. The state share of construction aid on projects approved after the effective date of this section shall be computed at the rate which was in existence at the time that the project was approved by the governing body of the administrative unit and shall be financed by General Fund Revenues other than from the sale of bonds or notes.

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 municipality 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. In addition to subsection 1, a uniform property tax is assessed which shall be determined as follows.

The Legislature shall annually, prior to April 1st, enact legislation establishing total the basic education allocation and establishing the uniform property tax rate. The uniform property tax rate shall be established by dividing no more than 50% of the basic education appropriation as established by the Legislature by the state valuation of all municipalities effective as of July 1st of the year of allocation of funds.

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 municipal assessors pursuant to section 383, divided by the state valuation 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 the 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  $\frac{1}{12}$  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 this 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 Commissioner of 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 elementary 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;
8. Beyond the state's allocation, an administrative unit may expend local funds without penalty and without limitation;
9. Allows local units to carry forward unexpended balances without penalty;
10. Provides for the creation of a capital construction fund to draw upon in making payments for the state's share of school construction on a "pay as you go" basis; and,
11. Prevents against future deficits in education financing.