

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 1946

H. P. 1889

Office of the Clerk of the House

The Committee on Education suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. Jalbert of Lewiston

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

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**AN ACT Authorizing Municipalities to Provide Textbooks and Other Nonsecular Services to  
Elementary and Secondary Pupils Attending Private Schools.**

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

**Sec. 1.** 20 MRSA § 3747, sub-§ 4, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

**4. Appropriation for private school transportation and other services.** Appropriate the necessary funds for reimbursement for private school transportation and other services authorized pursuant to Title 30, section 5104, subsections 6 through 14;

**Sec. 2.** 20 MRSA § 3748, sub-§ 10, as repealed and replaced by PL 1977, c. 24, § 14, is repealed and the following enacted in its place:

**10. Reimbursement for nonpublic school services.** Notwithstanding any other provision of this chapter, the commissioner shall reimburse 90% of the expenditures of the year immediately prior to the year of allocation reported by any municipality for providing any of the services to nonpublic schools authorized by Title 30, section 5104, subsections 6 through 14, provided the students attend nonpublic schools that are not operated for profit in whole or in part. The total amount reimbursed under this subsection shall not exceed the level of funds appropriated for this item under section 3747, subsection 4.

**Sec. 3.** 30 MRSA § 5104, sub-§§ 6-14 are enacted to read:

**6. Textbooks.** Providing for the purchase of those secular textbooks which have been approved by the superintending school committee for use in public schools in the

municipality and to loan those textbooks to pupils attending nonpublic elementary and secondary schools within the municipality or to their parents. Those loans shall be based upon individual requests submitted by those nonpublic school pupils or parents. The requests shall be submitted to the local school committee in which the nonpublic school is located. The request for the loan of textbooks shall, for administrative convenience, be submitted by the nonpublic school or parent to the nonpublic school which shall prepare and submit collective summaries of the individual requests to the local school committee. As used in this section, "textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school he regularly attends;

7. Speech and hearing diagnostic services. Providing for speech and hearing diagnostic services to pupils attending nonpublic elementary and secondary schools within a municipality. These services shall be provided in the nonpublic school attended by the pupil receiving the service;

8. Physician, nursing, dental and optometric services. Providing physician, nursing, dental and optometric services to pupils attending nonpublic elementary and secondary schools within the district. These services shall be provided in the school attended by the nonpublic school pupil receiving the service;

9. Diagnostic psychological services. Providing diagnostic psychological services to pupils attending nonpublic elementary and secondary schools within a municipality. These services shall be provided in the school attended by the pupils receiving the services;

10. Therapeutic psychological and speech and hearing services. Providing therapeutic psychological and speech and hearing services to pupils attending nonpublic elementary and secondary schools within the municipality. These services shall be provided in the public school, in public centers or in mobile units located off the nonpublic premises as determined by the local school committee. If these services are provided in the public school or in public centers, transportation to and from these facilities shall be provided by the school committee in which the nonpublic school is located;

11. Guidance and counseling services. Providing guidance and counseling services to pupils attending nonpublic elementary and secondary schools within a municipality or school administrative district served by a municipality. These services shall be provided in the public school, in public centers or in mobile units located off the nonpublic premises determined by the local school committee. If these services are provided in the public school or in public centers, transportation to and from these facilities shall be provided by the school committee in which the nonpublic school is located;

12. Remedial services. Providing remedial services to pupils attending nonpublic elementary and secondary schools within a municipality. These services shall be provided in the public school, in public centers or in mobile units located off of the nonpublic premises as determined by the local school committee. If these services are provided in the public school or in public centers, transportation to and from these facilities shall be provided by the school committee in which the nonpublic school is located;

13. Tests and scoring services. Providing for the use by pupils attending nonpublic elementary and secondary schools within a municipality the standardized tests and scoring services which are in use in the public schools serving that municipality; and

14. Programs for the deaf, blind, emotionally disturbed, crippled and physically handicapped children. Providing programs for the deaf, blind, emotionally disturbed,

crippled and physically handicapped children attending nonpublic elementary and secondary schools within the municipality. These services shall be provided in the public school, in public centers and in mobile units located off the nonpublic premises as determined by the local school committee. If these services are provided in the public school or in the public centers, transportation to and from these facilities shall be provided by the school committee in which the nonpublic school is located.

Sec. 4. 30 MRSA § 5104, as last amended by PL 1973, c. 777, §§ 1 and 2, is further amended by adding at the end the following new paragraphs:

No municipality shall provide health or remedial services to nonpublic school pupils as authorized by this section, unless those services are available to pupils attending the public school serving the municipality.

Health and remedial services and instructional materials and equipment provided for the benefit of nonpublic school pupils pursuant to this section, and the admission of pupils to the nonpublic schools shall be provided without distinction as to race, creed, color, the national origin of the pupils or of their teachers. No instructional materials or instructional equipment shall be loaned to pupils in nonpublic schools or their parents unless similar instructional material or instructional equipment is available for pupils in a public school served by a municipality.

No municipality shall provide services, materials or equipment for use in religious courses, devotional exercises, religious training or any other religious activity.

#### STATEMENT OF FACT

The United States Supreme Court in the case of *Wolman vs. Walter* 45 L.W. 4861 (June 24, 1977) clearly delineated what types of services may be provided nonpublic students without violating the United States Constitution. Sections 3 and 4 of this bill authorize municipalities at each municipality's individual discretion, to raise and appropriate money to loan textbooks to nonpublic school students, to provide speech and hearing diagnostic services to nonpublic school pupils, to provide physician, nursing, dental and optometric services, to provide diagnostic psychological services and to provide other services for exceptional children attending nonpublic schools. A municipality would not be able to provide these services unless they were also being provided to public school pupils.

Sections 1 and 2 of the bill provide the mechanism within the School Finance Act to reimburse the municipalities for these expenses consistent with the School Finance Act.