

MAINE STATE LEGISLATURE

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ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1683

H. P. 1534

House of Representatives, June 8, 1979

Reported by Mr. Birt from the Committee on Education. Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

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 of 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 last amended by PL 1977, c. 625, § 1, is repealed and the following enacted in its place:

§ 220. Transportation

The superintendent of a School Administrative District, with the approval of the board of directors, shall provide for the transportation of all public school pupils residing in the district as follows.

1. **Elementary pupils.** All elementary pupils shall be transported a part or the whole of the distance to and from the nearest suitable school.

2. **Secondary pupils.** All secondary pupils shall be transported a part or the whole of the distance to and from the secondary school in the district. If a district does not maintain a secondary school, all secondary pupils shall be transported all or part of the distance to and from the secondary school which they are attending in the unit or units with which the district has contracted for secondary school privileges. The district may transport secondary school pupils attending other secondary schools at the discretion of the board of directors.

3. **Duration of transportation services.** Transportation shall be provided for the number of weeks for which the schools are maintained in each year when these public school pupils reside at such a distance from the school as in the judgment of the school directors shall render transportation necessary.

4. **Transportation safety.** In all cases, transportation provided shall conserve the comfort, safety and welfare of the pupils transported and shall be in charge of a responsible driver who shall have the control over the conduct of the pupils while they are being transported.

5. **Contracts.** Contracts for transportation shall be made as follows.

A. **Contracts for transportation** may be made for a period not to exceed 5 years.

B. These contracts shall be executed by the superintendent of the School Administrative District with the approval of the school directors.

6. Expenditures. The expenditures for transportation shall be considered as an expense of transportation operations of the school in the district.

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 § 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. 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 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 finding 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. 5. 20 MRSA § 305, 3rd ¶, and 4th sentences from the end, as enacted by PL 1969, c. 440, § 2-F, are amended to read:

Each member municipality of the district shall be represented at the meeting to determine the necessity of reconsidering the method of sharing costs by 3 of its municipal officers, school director or directors, and 2 representatives from each municipality chosen at large by its municipal officers. Any change in the method of sharing costs must first be approved by a **majority** vote of ~~2/3~~ of those present and voting and shall become effective when approved by a majority vote of the district at a meeting called and held for this purpose in accordance with section 225.

Sec. 6. 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. 7. 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 in 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. 8. 20 MRSA § 1289, 2nd sentence is repealed as follows:

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

Sec. 9. 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. 10. 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. 11. 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. 12. 20 MRSA § 2265 is enacted to read:

§ 2265. Recommendation for funding levels; annual certification; original requests; inclusion of maintenance, repair and capital construction budgets

1. **Funding level.** The State Board of Education shall certify and present to the Legislature and the Governor, prior to November 15th of the year prior to the first regular session of the Legislature, the funding levels which it recommends for the operation of the institutes.

2. **Costs of maintenance, repairs and capital construction.** Notwithstanding any other provision of law, the costs of maintenance, repairs and capital construction at the institutes shall be included in the funding level requests presented by the board. In the preparation, development and submission of funding requests for maintenance, repairs and capital construction, the board is authorized and directed to work with the Bureau of Public Improvements. It is the intent of the Legislature that moneys appropriated for maintenance, repairs and capital construction at the vocational-technical institutes shall be allocated and expended for the same purposes as authorized.

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 § 3457, Table II, 2nd and 3rd sentences, as repealed and replaced by PL 1973, c. 556, § 15, are amended to read:

~~The Effective July 1, 1980, the unit shall be reimbursed the amount state allocation portion of debt service which has been incurred on all approved school construction projects. Construction~~ The reimbursements shall be scheduled so that payments may be made in accordance with the payment schedules established by the administrative units.

Sec. 15. 20 MRSA § 3472, sub-§ 1, ¶C, as enacted by PL 1977, c. 563, § 7, is amended to read:

C. ~~The Effective July 1, 1980, the State shall pay its share~~ **the state allocation portion** of project costs to units as the bonds become due.

Sec. 16. 20 MRSA § 3472, sub-§ 5, as enacted by PL 1977, c. 563, § 7, is amended to read:

5. **Payment of state allocation.** ~~The Effective July 1, 1980, the State shall pay its share~~ **the state allocation portion** of project costs to the units according to the unit's debt retirement schedule.

Sec. 17. 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. 18. 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. 19. 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. 20. 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 amaintenance of plant and minor remodeling and site development not in conjunction with a construction project and shall be part of operating costs.

Sec. 21. 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 shall be 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. 22. 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. 23. 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. 24. 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. 25. 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. 26. 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. 27. 20 MRSA § 4750, sub-§ 7, first and next to last sentences, as enacted by PL 1977, c. 625, § 8, are repealed.

Sec. 28. 29 MRSA § 2019, sub-§§ 1 to 4, as repealed and replaced by PL 1977, c. 78, § 168, are 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.

2. Stopping. The operator of a vehicle on a way, upon meeting or overtaking a school bus from either direction which has stopped, with its ~~red~~ lights flashing, on the way to receive or discharge school children, shall stop that vehicle before reaching that school bus and that operator shall not proceed until that school bus resumes motion or until signaled by the school bus operator to proceed.

3. Separated roadways. The operator of a vehicle on a way with roadways separated by curbing or other similar physical barrier need not stop upon meeting or passing a school bus which is stopped, with its ~~red~~ lights flashing, traveling in a lane separated by the barrier from the lane that operator is traveling in, or when upon a limited access highway and the school bus is topped in a loading zone, which is part of or adjacent to that highway and where pedestrians are not permitted to cross the roadway.

4. Use of flashing red 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, except section 3 which shall take effect when approved, except section 3 which shall take effect 91 days after adjournment and except sections 21, 22, 24, 25 and 27 which shall take effect on July 1, 1979, and section 12 which shall take effect on July 2, 1979.

STATEMENT OF FACT

The purposes of this bill are as follows.

1. Section 1. The Maine Advisory Council on Vocational Education is a federally-mandated committee that is independent of the department. This section deletes the listing of the committee in the statutes as a component of the department.

2. Section 2. The definition of transitional instruction enacted earlier in this session as a part of the changes in the bilingual education law is clarified.

3. Section 3. Section 220 of Title 20 was inadvertently repealed earlier in the session. This section reenacts it.

4. Section 4. The language enacted in this section is presently misplaced in the law as the 4th paragraph of § 305. This section places the paragraph correctly after the 2nd paragraph.

5. Section 5. This section identifies the number of persons who will represent each municipality at the meeting called to determine the cost sharing in a school administrative district. It also provides that the method of sharing costs must be approved by a majority vote rather than a 2/3 vote of the district.

6. Section 6. This section repeals the 4th paragraph of section 305. This paragraph is reenacted by section 4 of this bill.

7. Section 7. This section changes the deadline from September 1st to November 1st for the submission of financial reports relating to the school lunch program. The change makes the deadline consistent with other reporting and accounting requirements.

8. Section 8. This section repeals a sentence relating to contracting for secondary education by SAD's without high schools.

The sentence is inconsistent with a provision enacted earlier in the session.

9. Section 9. This section permits a student in the unorganized territory to attend any secondary school to which he can gain admission. The change is consistent with provisions for secondary pupils in administrative units without secondary schools.

10. Section 10. This amendment to existing law would relieve the department of the legal responsibility to conduct a census of pupils who have completed grade 12 and who are less than 20 years of age.

11. Section 11. The amendment would allow medical students to defer obligations to the State until after obligated public health service or armed forces services. This will make the language consistent with the contract provisions for students of medicine, dentistry, veterinary medicine and optometry.

12. Section 12. The section clarifies the role of the Bureau of Public Improvements in the budget process for capital construction, maintenance and repairs at the VTI's.

13. Section 13. This section clarifies the definition of 'state capitation payment' in the post-graduate student contract program.

14. Section 14. This section changes the wording relating to debt service payments. The purpose is to clarify that the State is paying only a portion of the debt service costs of any unit. This section relates to projects approved prior to July 1, 1977.

15. Section 15. This section makes the same change as section 14. It affects projects approved after July 1, 1977.

16. Section 16. This section makes the same change as section 15. It affects projects approved after July 1, 1977.

17. Section 17. This section clarifies the meaning of the term 'initial local share.' This initial local share is not included in the total which may be shared by the State.

18. Section 18. This section deletes the Department of Environmental Protection from a required role in all school construction projects. Other laws still require a role by the DEP if the project is of sufficient size and meets other conditions as set forth.

19. Section 19. This section makes the same change as section 18 and also replaces the Department of Public Safety by the State Fire Marshal. The State Fire Marshal has always acted on behalf of the Department of Public Safety and this change simply identifies that role.

20. Section 20. This section clarifies that units may alter their site development without the need for State Board of Education approval. This could include developing tracks and various kinds of athletic fields.

21. Section 21. The wording proposed is part of the overall effort to make the public more aware of the manner in which education costs are shared between local and state governments. It creates a statutory definition which has not existed since at least July 1, 1974. Except for nonreceiving units, reimbursement rates are expected to vary. It also specifies that each unit's share of vocational region debt service shall be included in each local unit's state or local allocation. Enactment of this language will neither raise nor lower state or local costs—it simply defines how a rate of reimbursement shall be calculated.

22. Section 22. This section makes the School Finance Act consistent with prior legislation which broadened the services available to municipalities for private school students.

23. Section 23. This section deletes language requiring the reporting of costs in a way which is impossible to carry out. The change will have no effect on any unit in the State.

24. Section 24. This section identifies the correct year which is to serve as a transition from year of allocation to base year reimbursement. It corrects an error and is consistent with the Legislature's intent when the transition was enacted.

25. Section 25. This section clarifies the present law in accordance with an opinion of the Attorney General.

26. Section 26. This section repeals provisions of the school finance law which are to be in effect only until June 30, 1979.

27. Section 27. This section repeals a provision of the school finance law which is to be in effect only until June 30, 1979.

28. Section 28. This section will make it possible for units in Maine to purchase buses with the system of lights consistent with federal standards. Current law allows only red flashing lights, whereas, Federal Standard #17 allows for the red lights to be preceded by amber warning lights that the bus is about to make a stop. Maine is one of only 4 or 5 states still mandating only the red lights. This requires manufacturers to change assembly procedure, resulting in higher-cost buses for Maine.