

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1048
6

7 S.P. 381

In Senate, March 14, 1985

8 Submitted by the Department of Educational and Cultural Services
9 pursuant to Joint Rule 24.

10 Referred to the Committee on Education. Sent down for concurrence and
ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Brown of Washington.

11 Cosponsored by Representative Crouse of Caribou, Representative
Roberts of Farmington and Representative Lawrence of Parsonsfield.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Clarify and Improve the Laws on
18 Education in the Unorganized
19 Territory.
20

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

23 Sec. 1. 5 MRSA §8002, sub-§2, as amended by PL
24 1981, c. 464, §1, is further amended to read:

25 2. Agency. "Agency" means any body of State Gov-
26 ernment authorized by law to adopt rules, to issue
27 licenses or to take final action in adjudicatory pro-
28 ceedings, including, but not limited to, every au-
29 thority, board, bureau, commission, department or of-
30 ficer of the State Government so authorized; but the
31 term shall not include the Legislature, Governor,
32 courts, University of Maine, Maine Maritime Academy,
33 vocational-technical institutes, the Commissioner of
34 Educational and Cultural Services for schools of the
35 unorganized territory, school administrative units,
36 special purpose districts or municipalities, counties

1 or other political subdivisions of the State. From
2 July 1, 1978 until January 1, 1979, the term "agency"
3 shall not include the Department of Marine Resources.

4 Sec. 2. 20-A MRSa §3251, as enacted by PL 1981,
5 c. 693, §§5 and 8, is amended to read:

6 §3251. School privileges

7 Subject to such reasonable rules as the commis-
8 sioner may adopt, all persons between the
9 ages of 5 and 20 years who reside with a parent or
10 legal guardian in an the unorganized territory or who
11 are resident emancipated minors or residents at least
12 18 years old shall be entitled to school privileges
13 eligible to attend elementary and secondary schools
14 and to receive appropriate special education and re-
15 lated services without charge to themselves or their
16 parents. These privileges Education shall be pro-
17 vided under the direction of the commissioner under
18 rules adopted or amended by the commissioner in ac-
19 cordance with section 3 and approved by the Governor
20 and shall meet the general standards for elementary
21 and secondary schooling and special education estab-
22 lished pursuant to this Title.

23 Sec. 3. 20-A MRSa §3252, as enacted by PL 1981,
24 c. 693, §§5 and 8, is repealed and the following en-
25 acted in its place:

26 §3252. Elementary pupils

27 1. Elementary school privileges provided. The
28 commissioner may provide elementary schooling for
29 resident children by establishing and maintaining
30 such elementary schools as may seem advisable or by
31 sending these children as tuition students to elemen-
32 tary schools elsewhere in the State.

33 2. Admission by receiving school. Tuition stu-
34 dents sent to a public school shall be admitted by
35 the receiving school officials upon receipt of a no-
36 tice of intention from the commissioner.

37 3. Benefits. Tuition students shall be entitled
38 to all privileges and benefits and shall be subject
39 to the same rules as students residing in the receiv-
40 ing school administrative unit.

1 4. Tuition. The commissioner shall pay tuition
2 for each tuition student in the amount approved as
3 the receiving administrative unit's official tuition
4 cost pursuant to section 5804 or 7302 in an amount
5 agreed upon between the commissioner and the school
6 board of the unit.

7 5. Transportation and board. The costs of
8 transportation or board may be paid in full or in
9 part by the commissioner.

10 6. Studies outside the country. The commissioner
11 may in his discretion make special arrangements
12 for children in the unorganized territory to attend a
13 public school in the adjoining territory of the Province
14 of Quebec and may pay tuition for those students.
15

16 Sec. 4. 20-A MRSA §3253, as enacted by PL 1981,
17 c. 693, §§5 and 8, is repealed.

18 Sec. 5. 20-A MRSA §3253-A is enacted to read:

19 §3253-A. Secondary students

20 1. Tuition student. Any eligible resident stu-
21 dent who may be judged by the commissioner to be
22 qualified may attend as a tuition student any second-
23 ary school in the State approved for tuition purposes
24 to which he may gain entrance.

25 2. Benefits. Tuition students shall be entitled
26 to all privileges and benefits and shall be subject
27 to the same rules as resident students of a receiving
28 school administrative unit or other enrolled students
29 of a receiving private school.

30 3. Tuition. The commissioner shall pay tuition
31 for each tuition student in an amount equal to the
32 official tuition rate approved pursuant to sections
33 5805, 5806, 5809 or 7302 for the receiving school for
34 nonresident students enrolled in secondary schools or
35 special education or vocational education programs,
36 provided that the student maintains a satisfactory
37 standard of deportment and scholarship.

1 2. Alternative instruction. Alternative in-
2 struction may be substituted for attendance in a day
3 school in the following cases.

4 A. The person is enrolled in an approved special
5 education program.

6 B. The person obtains equivalent instruction in
7 any other manner arranged or approved by the com-
8 missioner.

9 C. A person 14 years of age or older, with per-
10 mission of a parent and approval of the commis-
11 sioner, participates in a suitable program of
12 training or combined work and study.

13 3. Exceptions. Attendance at school or an al-
14 ternative program shall not be required of the fol-
15 lowing:

16 A. A person who has graduated from high school
17 before his 17th birthday;

18 B. A person who is at least 15 years old, has
19 completed the 9th grade and has permission to
20 leave school from a parent and the commissioner;
21 and

22 C. A person who has been adjudged an habitual
23 truant and has been excused from attendance pur-
24 suant to procedures established by the commis-
25 sioner.

26 §3272. Enforcement

27 1. Applicability of attendance laws. The gener-
28 al provisions of the truancy law, as set forth in
29 section 5053, shall apply to the unorganized territo-
30 ry and shall be enforced in the District Court as
31 provided in that section. All forfeitures imposed by
32 the court shall be paid to the Unorganized Territory
33 School Fund and committed to the support of the edu-
34 cational costs of children in the unorganized terri-
35 tory, except that an amount not to exceed the costs
36 of prosecution may be paid, upon court order, to the
37 county treasury.

1 2. Authority of attendance officers. The commissioner and appointed agents or special attendance
2 officers shall have all the duties and authority of
3 attendance officers set forth in sections 5052 and
4 5053. The corresponding duties of the school board
5 or superintendent shall not be applicable.
6

7 3. Administrative procedures. The commissioner
8 may by rule establish reasonable administrative pro-
9 cedures to precede enforcement actions.

10 Sec. 9. 20-A MRSA §3301, as enacted by PL 1981,
11 c. 693, §§5 and 8, is amended to read:

12 §3301. General powers

13 The commissioner shall have the following general
14 powers.

15 1. Agents. The commissioner may appoint agents
16 for an the unorganized territory who shall to act as
17 attendance officers and perform such other school du-
18 ties as are delegated to them by the commissioner.

19 2. Special attendance officers. The commissioner
20 may appoint special attendance officers for an the
21 unorganized unit territory. Attendance officers
22 shall be subject to the provisions of sections 3302
23 and 5052.

24 3. School buildings. School buildings not pri-
25 vately owned in an unorganized territory are declared
26 to be the property of the State. The commissioner
27 may hold, use and direct repairs, changes or addi-
28 tions to the school buildings.

29 4. Disposal of property. The commissioner may
30 sell, transfer or dispose of school property or
31 equipment in the unorganized territory. The proceeds
32 of the sale, transfer or disposal shall be used as
33 provided in section 3351.

34 5. Employment of personnel. The commissioner
35 shall employ teachers, administrators and other per-
36 sonnel as necessary to provide schooling and to care
37 for the school property in the unorganized territory.

1 6. Contracting authority. The commissioner may
2 make all contractual arrangements deemed necessary to
3 provide elementary, secondary, special education and
4 vocational education outside the unorganized territo-
5 ry in other schools of the State.

6 7. Payment of board. In each case where appli-
7 cation for the payment of board for an eligible stu-
8 dent is made, the commissioner shall determine if
9 board is necessary. The commissioner shall approve
10 all boarding arrangements prior to making payments.
11 Payments for board shall be made for a period of not
12 less than one school month upon receipt of a satis-
13 factory attendance record for the student from a re-
14 sponsible school official.

15 Sec. 10. 20-A MRSA §3302, as enacted by PL 1981,
16 c. 693, §§5 and 8, is repealed.

17 Sec. 11. 20-A MRSA §3302-A is enacted to read:
18 §3302-A. Care of school property

19 The commissioner shall have charge of all school
20 property in the unorganized territory.

21 1. School buildings. The commissioner shall
22 hold and manage the schools of the unorganized terri-
23 tory and provide custody and care, including all nec-
24 essary repairs, changes and additions to the build-
25 ings.

26 2. Books and equipment. The commissioner shall
27 furnish each school with the books and equipment nec-
28 essary for the course of study offered in the schools
29 and shall provide students in each school with school
30 books and necessary apparatus without expense to them
31 or their parents. The commissioner shall assure that
32 all necessary school books, apparatus and supplies
33 are seasonably distributed to each school, accurately
34 accounted for and economically used.

35 3. Ownership of school buildings. School build-
36 ings not privately owned in the unorganized territory
37 are declared to be the property of the State.

1 4. Use of school property. The commissioner may
2 rent or lease any unused school building or portion
3 of a building for school-related purposes for any
4 purpose which would not interfere with the school
5 programs. The proceeds of the rentals or leases
6 shall be paid to the Unorganized Territory School
7 Fund.

8 5. Disposal of property. The commissioner may
9 sell, transfer or dispose of school property, books
10 or equipment in the unorganized territory. The pro-
11 ceeds of any sale, transfer or disposal shall be paid
12 to the Unorganized Territory School Fund.

13 6. Applicability of general laws relating to il-
14 legal conduct. Sections 6804 and 6807 shall apply to
15 the unorganized territory, except that the commis-
16 sioner shall stand in place of the school administra-
17 tive unit. To enforce these laws, action may be
18 brought in the District Court or the Superior Court.
19 All forfeitures collected as part of such enforcement
20 actions shall be deposited to the Unorganized Terri-
21 tory School Fund, except that an amount not to exceed
22 the costs of prosecution may be paid, upon court or-
23 der, to the county treasury.

24 Sec. 12. 20-A MRSA §3303, as enacted by PL 1981,
25 c. 693, §§5 and 8, is repealed and the following en-
26 acted in its place:

27 §3303. Student census

28 By April 1st of each year, the commissioner shall
29 determine the number, names and ages of all persons
30 in the unorganized territory between the ages of 5
31 and 20 years who have not graduated from high school.

32 Sec. 13. 20-A MRSA §3304, sub-§2, as enacted by
33 PL 1981, c. 693, §§5 and 8, is amended to read:

34 2. Income credited. The portion of tuition in-
35 come based on capital expenditure shall be credited
36 to the Unorganized Territory School and Capital Work-
37 ing Funds Fund for the fiscal year in which it is
38 earned and shall reduce the indebtedness charged
39 against the unorganized unit in which it was earned.
40 The balance of tuition income shall be credited to

1 the General Fund for the year in which it is earned
2 and shall be a credit in computing the school assess-
3 ment on the property of the unorganized unit in which
4 it was earned.

5 Sec. 14. 20-A MRSA §3351, as enacted by PL 1981,
6 c. 693, §§5 and 8, is amended to read:

7 §3351. Unorganized Territory School Fund and Unorga-
8 nized Territory School Contingency Fund

9 1. Appropriation by the Legislature. The Legis-
10 lature ~~may~~ shall appropriate money to the Unorganized
11 Territory School ~~and Capital Working Funds~~ Fund.

12 2. Expenditures by the commissioner. The com-
13 missioner may expend amounts necessary to carry out
14 ~~subchapters ii and iii~~ this chapter from the Unorga-
15 nized Territory School ~~and Capital Working Funds~~ Fund
16 and for a purpose necessary for the schooling of
17 children in the unorganized territory, including:

18 A. Salaries, board and traveling expenses of
19 teachers ~~and~~, supervisors and other employees;

20 B. Conferences, training programs and profes-
21 sional improvement of teachers and other
22 employees;

23 C. Fuel and janitor service;

24 D. Tuition, board and transportation of elemen-
25 tary and secondary school students;

26 E. Text and reference books, school apparatus
27 and supplies, leases or rentals of lots or school
28 buildings;

29 F. Minor repairs to school buildings or equip-
30 ment;

31 G. Services, expenses and fees of agents, at-
32 tendance officers and clerical assistants;

33 H. Office expenses and utility service;

34 I. School medical and dental services;

1 J. The erection, equipping, major repair, remodel-
2 eling or alteration of schoolhouses and other
3 requisite buildings;

4 K. The purchase of lots or buildings for school
5 purposes or faculty housing;

6 L. The purchase, equipment and major repair of
7 school buses; and

8 M. For any other necessary capital expenses for
9 providing schools in the unorganized territory,
10 including a capital reserve account for future
11 construction and major renovations.

12 3. Balances. Unencumbered balances in the Unor-
13 ganized Territory School and Capital Working Funds
14 Fund shall not lapse but shall be carried forward to
15 the same fund for use in the next fiscal year.

16 4. Gifts and bequests. The Treasurer of State
17 may accept gifts, bequests and other funds from pub-
18 lic or private agencies, subject to any conditions
19 approved by the commissioner, to be credited to the
20 fund. A gift, bequest or grant made for a particular
21 designated project shall be credited to the ~~fund cre-~~
22 ~~ated in this section~~ Unorganized Territory School
23 Fund.

24 5. Short-term investments. The Treasurer of
25 State may, with the approval of the commissioner,
26 make short-term investments of accumulated assets in
27 the fund. The income and capital shall be returned
28 to the ~~fund~~ Unorganized Territory School Fund. The
29 income may be expended by the commissioner for the
30 purposes described in subsection 2.

31 6. Unorganized Territory School Contingency
32 Fund. The Legislature may appropriate additional
33 money to a nonlapsing Unorganized Territory School
34 Contingency Fund which shall not exceed 3% of the
35 money appropriated for the operational expenses of
36 schooling of unorganized territory children.

37 Sec. 15. 20-A MRSA §3403, sub-§4, as enacted by
38 PL 1981, c. 693, §§5 and 8, is amended to read:

1 organized towns. References to "legal guardian" are
2 deleted because "parent" is defined in the Maine Re-
3 vised Statutes, Title 20-A, section 1, to include a
4 child's legal guardian. It also codifies other legal
5 provisions relating to eligibility for schooling,
6 that is, that students may establish residence at the
7 age of majority or by becoming an emancipated minor.

8 Sections 3, 4 and 5 revise and reorganize the
9 provisions on elementary and secondary educations to
10 be consistent in format and organization. Language
11 pertaining to rule-making is deleted to consolidate
12 such authority in the commissioner, consistent with
13 the Maine Revised Statutes, Title 20-A, section
14 3302-A. Since the Maine Revised Statutes, Title
15 20-A, section 3302-A is general rule-making authority
16 for the entire chapter on the unorganized territory,
17 no other references to rule-making are necessary in
18 the chapter and may be confusing. Section 3 also
19 gives the commissioner more flexibility to arrange
20 for schooling in the Province of Quebec where it
21 would be more convenient than arrangements within the
22 State. The previous provision limited the arrange-
23 ments to schools in Estacourt only. Section 4 in-
24 cludes authority for the commissioner to pay for
25 transportation of secondary students, consistent with
26 the former Maine Revised Statutes, Title 20, section
27 3351, and establish practice. Section 4 clarifies
28 that tuition privileges for secondary students are
29 limited to attendance at secondary schools approved
30 for tuition purposes, consistent with other provi-
31 sions of Title 20-A and departmental practice.

32 Sections 6 and 7 expand the authority and duty of
33 the commissioner to offer programs other than the
34 regular elementary and secondary school programs. He
35 has an explicit duty, consistent with the general in-
36 tent of Title 20-A, to provide special education and
37 related services to children in the unorganized ter-
38 ritory. The special education law now refers only to
39 school administrative units, omitting the unorganized
40 territory. Also, he will have authority to establish
41 preschool programs for children ages 3 to 5 years, an
42 authority already granted to school administrative
43 units.

1 Section 8 adds a new subchapter to make the com-
2 pulsory attendance law applicable to the unorganized
3 territory. Reference to this law was omitted in re-
4 codification.

5 In referencing the truancy enforcement section
6 5053, language is added to adjust those provisions to
7 the unorganized territory. The commissioner or ap-
8 pointed agents may take enforcement action in truancy
9 cases. Instead of statutory prerequisites for tru-
10 ancy actions established for school committees, the
11 commissioner may establish other procedures by rule
12 for children in the unorganized territory.

13 Section 9 deletes references to sections govern-
14 ing attendance officers which are included in the new
15 Maine Revised Statutes, Title 20-A, chapter 119, sub-
16 chapter II-A, added in section 7 and transfers lan-
17 guages pertaining to payment of board for students
18 which were originally found in the Maine Revised
19 Statutes, Title 20-A, section 3253. Under general
20 duties of the commissioner, it adds explicit language
21 concerning authority for contracting and employment
22 of personnel, activities necessary for providing
23 schooling privileges for the unorganized territory.
24 Language pertaining to payment of board for students
25 is placed in this section and relates to both elemen-
26 tary and secondary schools. In the Maine Revised
27 Statutes, Title 20-A, section 3253-A, procedures are
28 established for secondary students. Language per-
29 taining to school buildings is deleted from this sec-
30 tion and transferred to a new section on school prop-
31 erty.

32 Sections 10 and 11 repeal the Maine Revised Stat-
33 utes, Title 20-A, section 3302, and enact section
34 3302-A, adding new language and consolidating exist-
35 ing language pertaining to school property. New lan-
36 guage requires the commissioner to provide textbooks
37 and equipment for all students which is now done, a
38 legal duty similar to that of school boards. It also
39 allows the commissioner to rent or lease any unused
40 school building for classroom for school-related pur-
41 poses, such as child care, or for any purpose which
42 would not interfere with school programs. The gener-
43 al laws relating to penalties for destruction of
44 school property and disorderly conduct, adopted by

1 reference in the current statutes, are placed in this
2 section for better clarity. This section also de-
3letes the requirement that administrative rules
4 adopted by the commissioner be approved by a Justice
5 of the Supreme Judicial Court. The requirement,
6 originally enacted in the early 20th century, is now
7 seen to be a violation of separation of powers and is
8 unconstitutional.

9 Section 12 requires a school census throughout
10 the unorganized territory rather than within each
11 "unit," to conform to current practice and funding
12 and taxation procedures.

13 Section 13 refers to one fund, the Unorganized
14 Territory School Fund, consistent with changes in the
15 Maine Revised Statutes, Title 20-A, section 3351, on
16 financing. It also deletes language referring to
17 credits for particular "units" of the unorganized
18 territory because of previous changes in taxation and
19 financing of expenditures in the unorganized territo-
20 ry found in the Maine Revised Statutes, Titles 30 and
21 36.

22 Section 14 consolidates 2 previously established
23 funds, the Unorganized Territory School Fund and the
24 Unorganized Territory Capital Working Fund, into one
25 fund. In recodification, the 2 funds were treated
26 together, but still referred to as 2 separate funds,
27 causing some administrative confusion. This confu-
28 sion will be eliminated by actual consolidation of
29 the funds. A new "contingency fund" is established
30 for the necessary purpose of providing a reserve for
31 emergencies, such as building repairs, unexpected
32 special education costs and similar items which occur
33 during the fiscal year.

34 Section 15 refers to a consolidated fund rather
35 than 2 funds for school purposes.

36 Section 16 referring to payment of board for stu-
37 dents, is amended to be consistent with chapter 119.

1 Section 17 referring to payment of tuition for
2 students, is amended to be consistent with chapter
3 119.

4 Section 18 corrects an error in recodification.

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