## MAINE STATE LEGISLATURE

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## 114th MAINE LEGISLATURE

## FIRST REGULAR SESSION - 1989

Legislative Document

No. 1244

S.P. 459

In Senate, April 19, 1989

Reference to the Committee on Education suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator GILL of Cumberland.

Cosponsored by Senator CLARK of Cumberland, Representative REED of Falmouth and Representative HANDY of Lewiston.

## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-NINE

An Act Relating to School Construction.



1	Be it enacted by the People of the State of Maine as follows:
3	Sec. 1. 20-A MRSA §15901, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its
5	place:
7	1. Approval. "Approval" means approval of a school
9	construction project by the state board which indicates:
11	A. Acknowledgement of the local need;
	B. Approval of site; and
13	C. Approval of the design in terms of its compatibility
15	with local educational programs.
17	Sec. 2. 20-A MRSA §15902, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:
19	3. Authority to sell bonds. A school administrative unit
21	may sell bonds to raise-the-local-share-of <u>finance the</u> project costs.
23	Sec. 3. 20-A MRSA §15903, sub-§1, as amended by PL 1983, c.
25	35, is further amended to read:
27 29	1. Application. A school construction project or the minor capital costs of a project with an estimated cost of more than \$50,000 \$100,000 shall meet the requirements of this section.
31 33	Sec. 4. 20-A MRSA §15904, first ¶, as amended by PL 1985, c. 248, §3, is further amended to read:
	Prior Subsequent to final approval by the state board, a
35	school construction project, except a small scale school construction project as defined in section 15901, subsection 4-A,
37	must receive a favorable vote conducted in accordance with the following.
39	Sec. 5. 20-A MRSA §15917 is enacted to read:
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43	§15917. State share of up-front risk costs
45	It is the intent of the Legislature that, notwithstanding any other statute, the State shall assume a share of the up-front
4.7	risk costs of school building construction projects in the event of an unfavorable state board or local vote.
49	1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the
51	following meanings.

1	A. "State share" means the state share of up-front risk
2	costs that shall be at the same rate as the state share
3	percentage as defined in section 15603, subsection 25,
5	except that in no case may the state share rate be less than 20%.
	20 %
7	B. "Up-front risk costs" means those costs incurred during
	the development of the school construction project up to the
9	design level necessary for consideration for approval by the
,	state board and local voters. Appropriate design level
11	shall be determined by state board rule.
13	2. Allocation of funds. The state board shall allocate the following funds to cover the State's share of up-front risk costs
15	of school construction projects:
13	or benoor construction projects.
17	A. Funds appropriated for school construction projects by
	the Legislature that are not necessary for the payment of
19	principal and interest costs;
÷	
21	B. Funds resulting from interest earned on the investment
	of unused bond proceeds;
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	C. Funds resulting from the Maine Municipal Bond Bank
25	adjustments; and
27	D. Other excess funds originally scheduled for school
	construction projects.
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2.1	3. Nonlapsing account. The state board shall place the
31	funds referred to in subsection 2 in a nonlapsing, dedicated
33	revenue and interest-earning account to be used solely for
33	meeting the goal and purpose of this section.
35	A. The allocation of funds from the nonlapsing account
33	shall be limited to no more than \$1,000,000 in any fiscal
37	year.
3,	year.
39	B. At the end of a fiscal year, any funds in excess of
0,5	\$1,000,000 shall be transferred to the General Fund.
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	STATEMENT OF FACT
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	Under current law, the State Board of Education approves
47	projects at the concept level and, following a successful local
	referendum, the final or funding level. At the concept level,
49	the design has progressed to a point where 10% of the total
	design fee has been obligated. This is also the design level
51	when the local referendum is held. The final funding approval of

the state board is granted at the design-development level, the point at which 35% of the total design fee is obligated.

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Experience over the past decade has revealed that attempting to accurately estimate costs at the concept design level and thus lock in a project budget has created problems at both the state and local levels once the bids are opened. In some cases the low bid is so far above the estimates that the local officials must undergo the time and expense of a 2nd referendum vote and the state board appears to request extra funds. In other cases the bids are well below estimates, allowing local units to complete their projects exactly as planned and in some cases to have surplus funds. Perhaps substantial the most troublesome instance, however, occurs when the low bid is quite high, but by cutting down on movable equipment and building finishes, e.g. split block rather than brick, the project can proceed. situation is obviously unfair on a statewide basis.

Discussions with members of the design profession have revealed that a majority believe that data available at the design development or 35% level result in much more accurate cost estimates. Obviously, this action would alleviate most of the problems outlined in the previous paragraph.

Until the state board grants concept approval and the local referendum passes, the future of a project is in doubt. Thus, the local unit is solely responsible, at the present time, for the costs associated with developing the project to the concept or 10% design level.

This bill would permit the state board to require a project to be at the design development or 35% level before the board would act or the referendum be held. The establishment of the nonlapsing account would provide the resources necessary for the State to share in the financial risks involved in proceeding to this more sophisticated design level.

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A series of meetings and surveys have revealed that a great majority of local school superintendents and school board members favor the more advanced design work, but only if the State is willing to share in the risk.

Finally, the risk-sharing will take place only through the state board and local referendum vote. Should a project be aborted at any point beyond this, the local unit is liable, as is currently the case.

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The \$1,000,000 nonlapsing account established by this bill will not require a new appropriation. The money will be reallocated from other fund sources described in the bill.