

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1302

S.P. 481

In Senate, April 24, 1989

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

Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

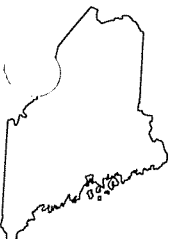
Presented by Senator GILL of Cumberland.

Cosponsored by Senator ESTES of York, Representative HANDY of Lewiston and Representative REED of Falmouth.

STATE OF MAINE

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

An Act to Amend and Improve the Laws Relating to Education.



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

3 **Sec. 1. 5 MRSA §937, sub-§1, ¶¶F and G,** as enacted by PL 1983,
c. 729, §4, are amended to read:

5 F. Director, Planning and Management Information; and

7 G. Federal and State Education Program Coordinator; and

9 **Sec. 2. 5 MRSA §937, sub-§1, ¶H** is enacted to read:

11 H. Executive Director, Interdepartmental Council.

13 **Sec. 3. 20-A MRSA §203, sub-§1,** as amended by PL 1987, c. 395,
15 Pt. A, §44, is further amended to read:

17 1. **Commissioner's appointments.** ~~The commissioner~~ following
19 officials shall be appoint-the-following-officials-who appointed
by and shall serve at his the pleasure of the commissioner:

21 A. Assistant to the Commissioner;

23 B. Deputy Commissioner;

25 C. Associate Commissioner, Bureau of School Management;

27 D. Associate Commissioner, Bureau of Instruction;

29 E. Associate Commissioner, Bureau of Adult and Secondary
Vocational Education;

31 F. Director, Planning and Management Information; and

33 G. Federal and State Education Program Coordinator; and

35 H. Executive Director, Interdepartmental Council.

37 **Sec. 4. 20-A MRSA §1306,** as enacted by PL 1981, c. 693, §§5
39 and 8, is amended to read:

41 **§1306. Budget format**

43 The board of directors shall determine the budget format
45 unless it is established by the district voters petition--to
establish-it.

47 1. **Petition.** An article dealing--with establishing the
49 budget format may be placed on the next warrant if authorized by
a majority vote of the board or if a written petition of at least
10% of the number of voters voting in the last gubernatorial
51 election in the municipalities within the district has been
presented to the board.

1
2. Meeting. A school budget format may be established by
3 the district voters if the lesser of either 20% of the number of
4 registered voters or 200 registered voters vote on an appropriate
5 warrant article and a majority approve it. The meeting shall be
6 called and held as provided for ~~district approval procedures~~
7 budget meetings under sections ~~1351 to 1354~~ 1303 and 1304 or
8 under sections 1351 to 1354 if the directors so choose or if the
9 voting at district budget meetings is done within each member
10 municipality.

11
3. Effective date. A change in budget format shall be
12 voted on at least 90 days prior to the budget year for which that
13 change is to be effective.

14
15 **Sec. 5. 20-A MRSA §1352, sub-§1,** as enacted by PL 1981, c.
16 693, §§5 and 8, is amended to read:

17
18 1. Municipal officers. The warrant shall direct the
19 municipal officers within the district to call a referendum on a
20 date and time determined by the board of directors. A warrant
21 shall be prepared and distributed at least 30 days prior to the
22 date of the referendum, except that a warrant for a school
23 district budget referendum held in accordance with section 1305,
24 subsection 2, shall be prepared and distributed at least 14 days
25 prior to the date of the referendum.

26
27 A. The warrant shall be directed to a resident of the
28 district by name, ordering the resident to notify the
29 municipal officers of each of the municipalities within the
30 district, to call a town meeting or city election on the
31 date specified by the board of directors. No other date may
32 be used. The person who serves the warrant shall make a
33 return on the warrant stating the manner of services and the
34 time when it was given.

35
36 B. The warrant shall be served on the municipal clerk of
37 each of the municipalities within the district by delivering
38 an attested copy of the warrant in hand within 3 days of the
39 date of the warrant. The municipal clerk, on receipt of the
40 warrant, shall immediately notify the municipal officers
41 within the municipality. The municipal officers shall
42 forthwith meet, countersign and have the warrant posted.

43
44 C. The warrants and other notices for the referendum shall
45 be in the same manner as provided in Title 21 21-A.

46
47 **Sec. 6. 20-A MRSA §1407, sub-§§3 to 5** are enacted to read:

48
49 3. Costs and procedures during subsequent years. During
50 any year subsequent to the year during which an elementary school
51 remains open contrary to the school administrative district board

1 of director's vote to close that elementary school, as a result
2 of a municipal referendum, the elementary school will be open
3 without any additional cost to the municipality except as
4 described in paragraphs A and B.

5
6 A. If the school administrative district board of directors
7 again vote to close the elementary school and the voters of
8 the member municipality again vote to keep the elementary
9 school open, as described in this paragraph, then the
10 elementary school will remain open and the member
11 municipality will be obligated to pay the additional costs
12 as described in paragraph B.

13
14 B. If the school administrative district board of directors
15 again votes to close the elementary school and the voters of
16 the member municipality fail to vote to keep the elementary
17 school open, then the elementary school is closed. In this
18 event, the elementary school may be reopened only if the
19 school administrative district board of directors vote to
20 reopen the school.

21 4. Definition of elementary school closing. In this
22 section, an elementary school closing shall be any action or
23 actions by the school administrative district that have the
24 effect of providing no instruction for any students at that
25 elementary school.

26
27 5. Method of payment by liable municipality. If a
28 municipality is liable for additional expenses as determined in
29 subsection 1, paragraph B, then the amount of this additional
30 expense shall be subtracted from the school administrative
31 district budget before each member municipality's assessment is
32 computed. This additional expense shall be paid by the member
33 municipality which is liable in equal monthly amounts, unless the
34 school administrative district and that member municipality
35 mutually agree to another method of payment.

36
37 **Sec. 7. 20-A MRSA §6151, sub-§2,** as enacted by PL 1981, c.
38 693, §§5 and 8, is amended to read:

39
40 **2. Penalty.** A school administrative unit whose
41 superintendent fails to make the report shall be subject to the
42 penalties of section 6801 ~~6801~~-A.

43
44 **Sec. 8. 20-A MRSA §6152, first ¶,** as amended by PL 1983, c.
45 859, Pt. A, §§22 and 25, is further amended to read:

46
47 The commissioner shall adopt rules, consistent with federal
48 and state laws, to carry out this subchapter which are consistent
49 with federal and state requirements.

50
51

1 **Sec. 9. 20-A MRSA §6301, sub-§1**, as amended by PL 1983, c.661,
3 §3, is repealed and the following enacted in its place:

5 **1. Duty of teacher.** A teacher who has reason to believe
7 that a student is a public health threat as a result of being
 infested with parasites, or having a communicable disease of the
 skin, mouth or eyes, shall inform the superintendent.

9 **Sec. 10. 20-A MRSA §6301, sub-§2**, as amended by PL 1983, c.
11 661, §4, is further amended to read:

13 **2. Duty of superintendent.** A superintendent informed by a
 teacher under subsection 1 shall may:

15 A. Inform the student's parent:

17 (1) To cleanse the clothing and bodies of their
19 children; and

21 (2) To furnish their children with the required home
23 or medical treatment for the relief of their trouble so
 defined in subsection 1;

25 B. Exclude the student from the public schools until the
 student is no longer ~~offensive-or-dangerous~~ a public health
27 threat; and

29 C. Exclude the student from public school as soon as safe
 and proper transportation home is available.

31 **Sec. 11. 20-A MRSA §6356, sub-§2**, as enacted by PL 1983, c.
33 661, §8, is amended to read:

35 **2. Superintendent's action.** Notwithstanding the provisions
 of this subchapter on immunization against specified diseases, a
37 superintendent shall may exclude from the public schools any
 child ~~because-of-filth-or-communicable-disease~~ who is a public
39 health threat, in accordance with section 6301, and the
 superintendent shall exclude from school any child or employee
41 who has contracted or has been exposed to a communicable disease
 as directed by a ~~local-health-officer,-the-Department-of-Human~~
43 ~~Services-or-the-school-physician~~ physician after consultation
 with the Bureau of Health.

45 **Sec. 12. 20-A MRSA §6551**, as amended by PL 1985, c. 258, §§5
47 to 10, is repealed.

49 **Sec. 13. 20-A MRSA §6651**, as enacted by PL 1987, c. 767, §1,
51 is amended by adding after the first paragraph a new paragraph to
 read:

1 Private secondary schools, approved by the department in
3 section 2951 for tuition, and whose school enrollments include at
5 least 60% publicly funded students as determined by the previous
7 school year's October and April average enrollment as reflected
9 in records on file in the department, may also develop
 school-based child care services. The sending school
 administrative unit shall not be liable for any costs except
 those costs that have been approved by the school board of the
 sending school administrative unit.

11 **Sec. 14. 20-A MRS §6651, sub-§2, ¶B,** as enacted by PL 1987, c.
13 767, §1, is amended to read:

15 B. Be available on a priority basis first to children of
17 students in the school administrative unit or private school
 and 2nd to children of teachers or other employees in the
 unit or private school; and

19 **Sec. 15. 20-A MRS §6651, sub-§§3 to 5,** as enacted by PL 1987,
21 c. 767, §1, are amended to read:

23 3. **Subsidizable costs for school administrative units under**
25 **the School Finance Act of 1985.** The cost of salaries and
27 educational materials attributable to the child care service
29 shall be calculated on a per-child basis. One hundred percent of
 the cost per child times the number of children whose parents
 attend school in the school unit shall be subsidizable as program
 costs under the School Finance Act of 1985.

31 4. **Cost to teachers and other employees.** A school
33 administrative unit or private school may offer school-based
35 child care services to teachers and other employees of the unit
37 or private school in accordance with a policy established by the
 local school board which establishes the basis for
 participation. The school administrative unit or private school
 shall charge a fee for provision of such services which is at
 least equal to the per-child cost defined in subsection 3.

39 5. **Costs to students.** There shall be no cost to the
41 student for enrolling a child in a child care service offered by
43 a school administrative unit or private school if the student has
45 an educational plan, approved by the school unit or private
 school, leading to academic progress and the attainment of
 reasonable educational goals.

47 **Sec. 16. 20-A MRS §6651, sub-§6** is enacted to read:

49 6. Subsidizable cost of operating programs in private
51 secondary schools. The cost of salaries and educational
 materials attributable to the child care services shall be
 calculated on a per-child basis. One hundred percent of the cost
 per child times the number of children whose parents attend

1 school in the private school shall be subsidizable as program
3 costs under the School Finance Act of 1985 if these costs are
paid for by the school administrative unit responsible for
5 educating the student parents.

7 **Sec. 17. 20-A MRSA §6652**, as enacted by PL 1987, c. 767, §1,
is amended to read:

9 **§6652. Parenting and training in child development**

11 A school administrative unit or private secondary school
13 which provides child care services under section 6651 shall offer
a one-semester course in parenting and child development to
15 secondary school students.

17 **Sec. 18. 20-A MRSA §6801-A, sub-§§2 to 4**, as enacted by PL
1983, c. 859, Pt. A, §§24 and 25, are amended to read:

19 2. **Authority to withhold state subsidy until reports are**
21 **received.** If Notwithstanding any other provision of law, if a
school administrative unit has failed to file any--financial
23 report,--audit--or--contract the reports required by this--Title
sections 6004, 6151 and 8606-A in the format and within the time
25 periods specified, the commissioner shall may withhold state
subsidy payments until these documents reports are received.

27 3. **Action by Attorney General.** If compliance cannot be
29 achieved by withholding subsidy payment, or if withholding would
be an inappropriate or unavailable remedy, or if a school or
31 school unit which is not eligible for state subsidy is out of
compliance with this Title, the commissioner may refer the matter
33 to the Attorney General for action. The Attorney General may
seek injunctive relief to enjoin activities not in compliance
with the governing law or seek any other remedy authorized by law.

35 4. **Other penalties.** Nothing in this section may-preclude
37 precludes the commissioner from employing other penalties
authorized in this Title or authorized or required by federal law.

39 **Sec. 19. 20-A MRSA §8404, sub-§3, ¶B**, as enacted by PL 1981, c.
41 693, §§5 and 8, is amended to read:

43 B. May develop a cooperative agreement which shall
45 delineate the duties and powers of the advisory committee
and devise a formula for sharing costs. The agreement is
47 subject to ratification by all of the school boards of the
participating administrative units. This agreement shall be
49 reviewed annually, with a copy being submitted to the
commissioner. The-cost-sharing-formula-shall-pertain-to-the
cost--of--vocational--educational---programs--which--exceed
51 expenditures-made-for-these-programs-in-the-base-year.

1 **Sec. 20. 20-A MRSA §12505, sub-§2**, as enacted by PL 1983, c.
2 859, Pt. F, §§1 and 2, is amended to read:

3
4 **2. Eligibility for graduate study or continuing education**
5 **loans.** Graduate study or continuing education loans shall be
6 given only to a teacher in a Maine school who has met other
7 eligibility criteria established by rule of the commissioner.
8 Preference shall be given to teachers of subjects which have been
9 determined to be underserved.

11 **Sec. 21. 20-A MRSA §13020, sub-§5** is enacted to read:

12
13 **5. Subpoena power.** The commissioner in acting to deny,
14 revoke or suspend certificates, may issue subpoenas in the name
15 of the office in accordance with the terms of Title 5, section
16 9060, except that subpoena authority shall apply to any stage of
17 any investigation and shall not be limited to an adjudicatory or
18 judicial proceeding.

19
20 **Sec. 22. 20-A MRSA §15603, sub-§22, ¶F**, as enacted by PL 1987,
21 c. 767, §4, is amended to read:

22 **F.** Starting in 1990-91 for expenditures in base year
23 1988-89, the cost of child care services as specified in
24 section 6651, subsection subsections 3 and 6.

25
26 **Sec. 23. 20-A MRSA §15613, sub-§5, ¶C**, as enacted by PL 1985,
27 c. 789, §4, is amended to read:

28
29 **C.** Special education costs authorized by this subsection
30 for state agency clients shall be paid by the department in
31 the year of allocation at 100% of actual costs. ~~In the~~
32 ~~fiscal year beginning July 1, 1987, 75% of those payments~~
33 ~~shall be considered part of the State's share of the total~~
34 ~~allocation in meeting the requirements of section 15602,~~
35 ~~subsection 1. For each fiscal year thereafter, the~~
36 ~~percentage of those payments, which shall be considered part~~
37 ~~of the State's share of the total allocation in meeting the~~
38 ~~requirements of section 15602, subsection 1, shall be~~
39 ~~reduced by 15% each year until the fiscal year beginning~~
40 ~~July 1, 1992. Beginning July 1, 1992, these payments shall~~
41 ~~no longer be considered part of the State's share of the~~
42 ~~total allocation in meeting the requirements of section~~
43 ~~15602, subsection 1.~~

44 **Sec. 24. 20-A MRSA §15621** is enacted to read:

45
46 §15621. Rulemaking

47
48 The commissioner may adopt rules pursuant to the Maine
49 Administrative Procedure Act, Title 5, chapter 375, to implement
50 this chapter.

1 report initially on the operation of this Act to the joint
3 standing committee of the Legislature having jurisdiction over
5 education matters by January 15, 1990.

7 STATEMENT OF FACT

9 Sections 1 to 3 of the bill add the position of Executive
11 Director of the Interdepartmental Council to the list of
13 Department of Educational and Cultural Services officials
appointed by the commissioner and also adds the position to the
list of major policy-influencing positions in the Department of
Educational and Cultural Services.

15 Section 4 of the bill amends the language establishing and
17 changing budget formats in school administrative districts.
Present language is inconsistent and confusing.

19 Section 5 changes the notice period for a school district
21 budget referendum from 30 to 14 days.

23 Section 6 specifies that, for each year following the year
25 during which the voters of a municipality vote to keep elementary
27 school open contrary to a vote by the school administrative
29 district Board of Directors, the issue of whether the elementary
31 school remains open or is closed must be resolved by the same
33 actions as were utilized during the first year. It also specifies
35 that if one or more classes are conducted in a school, the school
37 is not considered to be closed; only if there are no pupils being
39 educated in the school is the school considered to be closed. It
also specifies that the amount to be paid by the liable
municipality is deducted from the school administrative district
budget before each member municipality's cost-sharing amount is
computed and that the municipality, which is liable for the added
expense of keeping the elementary school open, will pay the
school administrative district this amount in equal monthly
payments unless a mutually agreeable alternative payment is
developed.

41 Section 7 corrects a reference.

43 Section 8 authorizes the commissioner to adopt rules for all
45 the reports and records mentioned in the chapter and makes a
technical change. Without discernible reason, the rule-making
authority is currently limited to one type of report.

47 Sections 9 to 11 revise language describing a child who is a
49 public health threat, give superintendents of schools
51 discretionary authority in determining actions to take regarding
a child who is a public health threat and repeals the statutory
requirement that all new public school employees be tested for
tuberculosis.

53

1 Sections 12 to 17 and 26 provide for child care and child
2 development training for student parents in certain private
3 secondary schools. Since there is no mechanism in the School
4 Finance Act to subsidize private schools directly, these programs
5 would be paid for the school units responsible for educating the
6 student parents and would have the allowable costs for these
7 students subsidized as program costs.

9 Section 18 makes changes in the enforcement section to
10 correct inconsistencies with the Maine Revised Statutes, Title
11 20-A, section 15604, subsection 3.

13 Section 19 limits the cost-sharing to a very small amount.
14 When vocational centers must raise the entire cost of operations,
15 this bill allows all participating administrative units to share
16 in all local cost.

17 Section 20 corrects an omission of rule-making authorization
18 in the Blaine House Scholars and Financial Assistance Program.

21 Section 21 allows the commissioner to issue subpoenas in the
22 context of investigations involving possible denials, suspensions
23 or revocations of certificates.

25 Section 22 defines expenditure of child care service as an
26 allowable operating cost.

27 Section 23 gives the commissioner authority to issue rules
28 regarding the School Finance Act. At present, rule-making
29 authority is limited to the filing of one type of financial
30 report, regarding services to private schools, and authority
31 granted under the Maine Administrative Procedure Act, Title 5,
32 chapter 375. It also makes the School Finance Act consistent
33 with Title 20-A, section 6152, as amended.

35 Section 24 allows the Department of Educational and Cultural
36 Services to request a 100% appropriation to fund state agency
37 clients beginning in fiscal year 1989-90. Currently, there is a
38 limit on the percentage of these costs that can be obtained by
39 appropriations outside of the total allocation: 55% in fiscal
40 year 1989-90; 70% in fiscal year 1990-91; and 85% in fiscal year
41 1991-92. The balance for each year is obtained by diverting
42 subsidy payments based on state agency client costs during the
43 base year. For school funding in fiscal year 1989-90 and
44 succeeding years, there are no state agency client expenditures
45 by school administrative units in the base year, so there will be
46 no funds to divert. With the current Legislature, this will
47 result in under-funding until fiscal year 1991-92. The proposed
48 amendment removes this restriction. The funds to support this
49 amendment are included in the department's proposed budget.

51

1 Section 25 amends the provision on school bus operator
requirements to authorize the commissioner to adopt training
3 requirements for school bus drivers.