

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1479

S.P. 542

In Senate, May 2, 1995

### An Act to Amend the Laws Relating to Education.

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Submitted by the Department of Education pursuant to Joint Rule 24.  
Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

Presented by Senator SMALL of Sagadahoc.  
Cosponsored by Senator: ESTY of Cumberland, Representatives: AULT of Wayne,  
STEVENS of Orono.

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

2           **Sec. 1. 5 MRSA §12004-G, sub-§10-A** is enacted to read:

4                   **10-A.**        Adaptive        Expenses        10 MRSA  
6                   Education       Equipment       Only           §373  
8                                   Loan Program  
                                  Fund Board

10           **Sec. 2. 5 MRSA §12004-G, sub-§14-A**, as enacted by PL 1989, c.  
12           503, Pt. A, §14, is repealed.

14           **Sec. 3. 10 MRSA §373, sub-§1**, as amended by PL 1989, c. 276,  
16           §1, is further amended to read:

18           **1. Establishment; membership.** There is established the  
20           Adaptive Equipment Loan Program Fund Board ~~which shall consist~~  
22           ~~that consists~~ of 9 members as follows: The Commissioner of  
24           ~~Human--Services~~ Education or the commissioner's designee; the  
26           Treasurer of State or the Treasurer of State's designee; an  
28           experienced consumer lender; a certified public accountant; and  
30           5 persons with a range of disabilities, all to be appointed by  
32           the Governor, subject to review of the ~~Joint-Standing-Committee~~  
34           joint standing committee of the Legislature having jurisdiction  
36           over ~~Housing--and--Economic--Development~~ housing and economic  
38           development matters, and confirmed by the Legislature. The  
40           board shall annually elect a chair from among its members.

42           **Sec. 4. 20-A MRSA §901**, as amended by PL 1985, c. 470, §1,  
44           is repealed.

46           **Sec. 5. 20-A MRSA §1001, sub-§9-A**, is enacted to read:

**9-A. Students expelled or suspended under the requirements**  
                  **of the federal Gun-Free School Zones Act of 1994.** The school  
                  boards shall adopt a policy for expelling a student who is  
                  determined to have brought a firearm, as defined in 18 United  
                  States Code, Section 921, to school and for referring the matter  
                  to the appropriate local law enforcement agency.

**A.** A student who is determined to have brought a firearm  
                  to school under this subsection must be expelled from  
                  school for a period of not less than one year, except that  
                  the school board may authorize the principal to modify the  
                  requirement for expulsion of a student on a case-by-case  
                  basis. A decision to change the placement of a student  
                  with a disability must be made in accordance with the

2 federal Individuals With Disabilities Education Act, 20  
3 United States Code, Section 1400 et seq.

4 B. Nothing in this subsection prevents a school board from:

6 (1) Offering instructional activities related to  
7 firearms or from allowing a firearm to be brought to  
8 school for instructional activities sanctioned by the  
9 district; or

10 (2) Providing educational services in an alternative  
11 setting to a student who has been expelled.

12  
13 C. In accordance with the proper investigation and due  
14 process provisions required in subsection 9, a principal  
15 may suspend immediately for good cause a student who is  
16 determined to have brought a firearm to school under this  
17 subsection.

18  
19 **Sec. 6. 20-A MRSA §6401**, as amended by P&SL 1993, c. 67, §1,  
20 is repealed.

21  
22 **Sec. 7. 20-A MRSA §15612, sub-§5, ¶D**, as enacted by PL 1993,  
23 c. 410, Pt. DDDD, §1, is amended to read:

24  
25 D. For fiscal year 1992-93, if the State does not meet the  
26 wealth neutrality test requirement of Public Law 81-874,  
27 subsection 5(d)(2) and if a state school subsidy of a  
28 school administrative unit is reduced in fiscal year  
29 1992-93 as a result of Public Law 81-874 receipts, the  
30 Legislature unconditionally commits to restoring to that  
31 school administrative unit all of the state subsidy  
32 withheld due to receipt of Public Law 81-874, Section  
33 3(c)(1) funds ~~if those funds must be subsequently returned~~  
34 ~~to the Federal Government in one of 2 equal annual~~  
35 installments beginning in fiscal year 1996-97.

36  
37 **Sec. 8. 20-A MRSA §18022, sub-§§1, 3 and 4**, as enacted by PL  
38 1993, c. 708, Pt. B, §1, are amended to read:

39  
40 **1. Advisory council.** "Advisory ~~eommittee~~ council" means  
41 the advisory ~~eommittee~~ council for the Division of Deafness.

42  
43 **3. Deaf or hard of hearing.** "Deaf or ~~hearing-impaired~~  
44 persons hard of hearing" means the sense of hearing is defective  
45 but still functional, with or without amplification.

46  
47 **4. Statewide registry.** "Statewide registry" means a  
48 current listing, developed in cooperation with various  
49 registries throughout the State, of those persons in the State  
50 who are deaf or ~~hearing-impaired~~ hard-of-hearing persons.

2           **Sec. 9. 20-A MRSA §§18023 and 18024**, as enacted by PL 1993,  
c. 708, Pt. B, §1, are amended to read:

4           **§18023. Powers and duties**

6           To provide the following services and information to deaf  
8 and ~~hearing-impaired~~ hard-of-hearing persons, the Division of  
Deafness shall:

10           **1. Provide advocacy.** Provide cooperative agreements or  
12 coordinate with agencies or community resources to provide  
advocacy for the rights of deaf and ~~hearing--impaired~~  
14 hard-of-hearing persons in the areas of employment, education,  
legal aid, health care, social services, finance, housing and  
16 other personal assistance while avoiding duplication of effort  
in these areas;

18           **2. Statewide registry.** Maintain, coordinate and update a  
20 voluntary statewide registry of deaf and ~~hearing--impaired~~  
hard-of-hearing persons developed in cooperation with various  
22 registries throughout the State. Use of this list is restricted  
by the provisions of section 18011.

24           **3. Information and referral.** Provide information and  
26 referral services to deaf and ~~hearing-impaired~~ hard-of-hearing  
persons and their families on questions related to their  
28 disorder;

30           **4. Develop objectives.** Develop a plan with goals and  
objectives for development, planning and implementation within a  
32 framework for greater cooperation and coordination among  
agencies and organizations now serving or having the potential  
34 to serve deaf and ~~hearing-impaired~~ hard-of-hearing persons;

36           **5. Community service center.** Continue to study the need  
to establish, maintain and fund at least one community service  
38 center where deaf and ~~hearing-impaired~~ hard-of-hearing persons  
and their families can receive pertinent information relating to  
40 the coordination of services that each requires;

42           **6. Promote accessibility.** Promote accessibility to all  
governmental services for residents of the State who are deaf or  
44 ~~hearing-impaired~~ hard-of-hearing persons; and

46           **7. Recommendations.** Make recommendations to the Governor  
and the joint standing committee of the Legislature having  
48 jurisdiction over education matters with respect to  
modifications in existing services or establishment of

2 additional services for deaf and hearing---impaired  
3 hard-of-hearing persons and their families.

4 **§18024. Advisory council**

6 There is established within the Department of Education,  
7 Office of Rehabilitation Services, Division of Deafness, an  
8 advisory ~~eommittee~~ council consisting of 23 members and 3  
9 nonvoting members-at-large to be appointed by the Director of  
10 the Office of Rehabilitation Services in conjunction with the  
11 Director of the Division of Deafness and representing equally  
12 consumers, professionals and the public. Members are entitled  
13 to compensation in accordance with Title 5, chapter 379.

14 The Director of the Office of Rehabilitation Services, in  
15 conjunction with the Director of the Division of Deafness, shall  
16 appoint, from the advisory ~~eommittee~~ council, a chair and  
17 vice-chair to serve 2-year terms. The ~~eommittee~~ council shall  
18 meet at the call of the chair but not less than 4 times during a  
19 calendar year. The chair may delegate duties to members to  
20 carry out the functions of the ~~eommittee~~ council.

22 **Sec. 10. 20-A MRSA §18025**, as enacted by PL 1993, c. 708,  
23 Pt. B, §1, is amended to read:

24 **§18025. Advisory council; powers and duties**

25 The advisory ~~eommittee~~ council shall advise the Director of  
26 the Office of Rehabilitation Services and shall prepare an  
27 annual report, which is a public document to the extent that it  
28 complies with section 18011. The report must include, but is  
29 not limited to:

30 **1. Review.** Review of the status of services to deaf and  
31 hearing-impaired hard-of-hearing persons;

32 **2. Recommendations.** Recommendations for priorities for the  
33 development and coordination of services to deaf and hearing  
34 impaired hard-of-hearing persons;

35 **3. Evaluation.** An evaluation of the progress made as the  
36 result of recommendations made in the preceding report of the  
37 chair;

38 **4. Statement of goals.** A statement of goals for activities  
39 of the division during the subsequent fiscal year; and

40 **5. Implementation of functions.** The steps to be taken by  
41 the division to implement the functions listed in section 18023.

2           **Sec. 11. 20-A MRSA §18026, sub-§2**, as enacted by PL 1993, c.  
708, Pt. B, §1, is amended to read:

4           **2. Director of the Division of Deafness; staff; qualifications.** The Director of the Division of Deafness and the  
6 staff must be knowledgeable of the needs of the deaf and ~~hearing~~  
~~impaired~~ hard of hearing and possess the ability to communicate  
8 on a meaningful basis with those persons.

10           **Sec. 12. 20-A MRSA §18070, sub-§§1 and 6**, as enacted by PL  
1993, c. 708, Pt. G, §1, are amended to read:

12           **1. Blind person.** "~~Blind or visually-impaired person~~" means  
14 a person having not more than 20/200 central visual acuity in  
the better eye after correction or an equally disabling loss of  
16 the visual field so that the widest diameter of the visual field  
subtends an angle no greater than 20 degrees.

18           **6. Manager.** "~~Operator~~ Manager" means the blind person,  
20 duly licensed by the division, who personally operates the  
vending facility.

22           **Sec. 13. 20-A MRSA §§18076 and 18077**, as enacted by PL 1993,  
24 c. 708, Pt. G, §1, are amended to read:

26           **§18076. Business Enterprise Program**

28           To provide blind persons with remunerative employment,  
enlarge the economic opportunities of blind persons and  
30 encourage blind persons to become self-supporting, the officer,  
board or other authority in charge of a building or property  
32 shall grant to the division authority:

34           **1. Vending facility.** To install in a building or property  
a vending facility whenever a vending facility may be operated  
36 by ~~an operator~~ a blind person; and

38           **2. Vending machines.** To place vending machines operated  
by the division in a building or property if a vending facility  
40 operated by ~~an operator~~ a blind person is not warranted. Income  
from these vending machines must be used for the purposes set  
42 forth in this section.

44           **§18077. Preference**

46           The officer, board or other authority in charge of a  
building or property shall:

48           **1. Policies.** Adopt policies and take actions necessary to  
50 ensure that ~~operators~~ blind persons are given preference in the

2 establishment and the operation of vending facilities on  
property under its jurisdiction;

4 **2. Surveys.** Cooperate with the division in surveys of  
6 properties and buildings under its control in order to find  
suitable locations for the operation of vending facilities by  
8 ~~operators~~ managers, and after a determination that a facility  
may be operated by ~~an operator~~ a manager, shall cooperate with  
the division in the installation of a vending facility;

10 **3. Income.** To achieve and protect the preference of blind  
12 persons in the operation of vending facilities, arrange for the  
assignment of the income derived from vending machines that are  
14 located in reasonable proximity to and in direct competition  
with a vending facility for which authority is granted pursuant  
16 to this chapter, to the ~~operator~~ manager or ~~operators~~ managers  
affected. A vending machine that vends articles authorized for  
18 vending pursuant to section 18070, subsection 8, and is so  
located that it attracts customers who would otherwise patronize  
20 the vending facility considered to be in reasonable proximity to  
and in direct competition with the vending facility;

22 **4. Licensing.** Not less than 30 60 days prior to the  
24 ~~license~~ termination, issuance or renewal or--licensing of a  
contract for the operation of a vending facility, inform the  
26 division; and

28 **5. Vending machines.** Allow the division to place vending  
machines in a building where a vending facility operated by an  
30 ~~operator~~ a manager would not be feasible. Income from these  
machines accrues to the division's set-aside account for  
32 purposes stated in section 18076; ~~and.~~

34 ~~6.---Locations.---Inform the division of locations where~~  
vending facilities are planned that might be operated in or near  
36 ~~other buildings or properties that may be or may come under the~~  
jurisdiction of a department, agency or authority of the State  
38 ~~or of a county or a municipality.~~

40 **Sec. 14. 20-A MRSA §18078, sub-§1,** as enacted by PL 1993, c.  
708, Pt. G, §1, is amended to read:

42 **1. Rules.** Prescribe rules governing:

44 A. The maintenance of a roster of blind persons eligible  
46 to become ~~operators~~ managers and issuance of licenses;

48 B. A fair hearing. In the case of ~~an operator~~ a manager  
50 desiring to appeal a decision ~~that the operator determines~~  
~~to be adverse to the operator~~ the division shall appoint a



2 hearing board consisting of 3 persons, one to be chosen by  
the ~~operator~~ manager, one to be chosen by the division and  
4 the 3rd person chosen by the other 2 persons. The decision  
of the board is final;

6 C. The right to, the title to and the interest in vending  
facility equipment and stock; and

8 D. The civil rights of ~~operators~~ managers;

10 **Sec. 15. 20-A MRSA §18078, sub-§3**, as enacted by PL 1993, c.  
12 708, Pt. G, §1, is amended to read:

14 **3. Surveys.** Conduct surveys to find locations where  
16 vending facilities may be operated by ~~operators~~ blind persons  
and establish vending facilities as it determines appropriate;

18 **Sec. 16. 20-A MRSA §18079**, as enacted by PL 1993, c. 708,  
20 Pt. G, §1, is amended to read:

22 **§18079. Construction, remodeling; planning for vending facility**

To carry out the purposes of this chapter, when new  
24 construction, remodeling, leasing, acquisition or improvement of  
public buildings or properties is authorized, the agency  
26 directing that construction, remodeling, leasing, acquisition or  
improvement shall, when the size of the building or property  
28 warrants, make available suitable space and facilities for  
vending facilities to be operated in the building or property by  
30 ~~operators~~ blind persons.

32 **Sec. 17. 20-A MRSA §18081**, as enacted by PL 1993, c. 708,  
34 Pt. G, §1, is amended to read:

36 **§18081. Fees**

A ~~license-fee,--a rental fee or--other--charge~~ may not be  
38 demanded,~~---assessed,---exacted,~~ required or received ~~from--an~~  
operator for the granting of authority to the division to  
40 operate a vending facility.

42 **STATEMENT OF FACT**

44 This bill makes the following changes to the education laws  
46 of this State.

48 1. It replaces the Commissioner of Human Services on the  
Adaptive Equipment Loan Program Fund Board with the Commissioner  
50 of Education.

2           2. It removes all references to the School Volunteer  
Program in the department.

4  
6           3. It removes all references to the School Nurse  
Coordinator in the department.

8           4. It changes the name of the advisory committee for the  
Division of Deafness to the advisory council for the Division of  
10 Deafness and changes all references from "hearing impaired" to  
"hard of hearing."

12           5. It changes all references in the laws relative to the  
14 Division of Deafness from "hearing impaired" to "hard of  
hearing."

16           6. It amends several sections of law concerning vending  
18 facilities to apply to blind food facilities and their managers  
and staff.

20           7. It adds a provision to bring the State and state  
22 schools into compliance with the provisions of the federal  
Gun-Free School Zones Act of 1994.

24           8. It amends the law regarding federal aid to prevent the  
26 United States Department of Education from compelling school  
units that received federal impact aid in the State to pay back  
28 the impact aid they received for fiscal year 1992-93 and  
mitigates the financial impact of restoration of the subsidy by  
30 spreading it out over a period of one to 2 years.