

# MAINE STATE LEGISLATURE

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L.D. 1818

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DATE: 3/28/96

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**EDUCATION AND CULTURAL AFFAIRS**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1327, L.D. 1818, Bill, "An Act to Require that Public Schools Permit Participation in Curricular, Cocurricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs"

Amend the bill by inserting after the title and before the enacting clause the following:

**'Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

**'Sec. 1. 20-A MRSA c. 211, sub-c. I-A is enacted to read:**

**SUBCHAPTER I-A**

**EQUIVALENT INSTRUCTION PROGRAMS**

**§5021. Standards for participation in public schools by students enrolled in equivalent instruction programs**

A school administrative unit shall conform to the following standards in making public school resources and services available to a student enrolled in an equivalent instruction program approved by the commissioner pursuant to section 5001-A, subsection 3, paragraph A, subparagraph (3) for a student

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2 otherwise eligible to attend school in that school administrative  
3 unit.

4 1. Participation in regular classes. A student receiving  
5 home instruction may enroll in specific day school classes at the  
6 appropriate public school if each of the following conditions is  
7 met.

8  
9  
10 A. The student or the student's parent or guardian, on the  
11 student's behalf, applies in writing to and receives written  
12 approval from the superintendent or the superintendent's  
13 designee. Approval may not be unreasonably withheld.

14 B. The student can demonstrate prior satisfactory academic  
15 achievement consistent with school unit policy and  
16 procedures applicable to all students.

17 C. The student shall comply with behavioral, disciplinary,  
18 attendance and other classroom rules applicable to all  
19 students. If a student fails to comply, the school may  
20 withhold credit or terminate participation.

21  
22 D. Transportation must be provided by the parent or  
23 guardian or student. The student may use the same  
24 transportation as all other students in the school unit, as  
25 long as additional expenses are not incurred.

26  
27 E. The student shall complete all assignments and tests as  
28 required of all students in the class.

29  
30 F. A home-schooled student may audit a course in accordance  
31 with established local policy at the appropriate public  
32 school under the following conditions.

33  
34  
35 (1) The student or the student's parent or guardian,  
36 on behalf of the student, applies in writing to and  
37 receives written approval from the superintendent or  
38 the superintendent's designee to audit a specific  
39 course or courses. Participation may not be  
40 unreasonably withheld.

41  
42 (2) The student agrees to meet established behavioral,  
43 disciplinary, attendance and other classroom rules  
44 applicable to all students. If a student fails to  
45 comply, the school may terminate participation.

46  
47 2. Academic credit. A student receiving home-school  
48 instruction must receive academic credit subject to the following  
49 requirements.

2 A. Academic credit for individual courses must be awarded  
4 if the student meets required academic standards applicable  
6 to all students enrolled in the same course.

8 B. Academic credit must be awarded for successful  
10 completion of alternative instruction opportunities  
12 sponsored by the school and available to all students.

14 3. Special education services. A student receiving  
16 home-school instruction is eligible for special education  
18 services, as provided under federal regulations, in accordance  
20 with section 5001-A and relevant department procedures and  
22 standards.

24 4. Participation in cocurricular activities. A student  
26 receiving home-school instruction is eligible to participate in  
28 cocurricular activities sponsored by the local school unit  
30 provided the following requirements are met.

32 A. The student or the student's parent or guardian, on  
34 behalf of the student, applies in writing to and receives  
36 written approval from the principal of the school or the  
38 principal's designee. Participation may not be unreasonably  
40 withheld.

42 B. The student agrees to meet established behavioral,  
44 disciplinary, attendance and other rules applicable to all  
46 students.

48 5. Participation in extracurricular activities. Students  
50 receiving home-school instruction are eligible to try out for  
52 extracurricular activities sponsored by the local school unit,  
54 provided the student applies in writing, if the following  
56 requirements are satisfied.

58 A. The student agrees to abide by equivalent rules of  
60 participation as are applicable to regularly enrolled  
62 students participating in the activity and provides evidence  
64 that the rules of participation are being met.

66 B. The student complies with the same physical examination,  
68 immunization, insurance, age and semester eligibility  
70 requirements as regularly enrolled students participating in  
72 the activity. All required documentation must be made  
74 available upon request by the school unit.

76 C. The student meets equivalent academic standards as those  
78 established for regularly enrolled students participating in  
80 the activity and provides evidence that the academic  
82 standards are being met.

2           D. The student abides by the same transportation policy as  
4           regularly enrolled students participating in the activity.

6           6. Use of school facilities and equipment. A student  
8           receiving home-school instruction may use public school  
          facilities and equipment on the same basis as regularly enrolled  
          students if the following conditions are met:

10           A. Use does not disrupt regular school activities;

12           B. Use is approved by the school principal in accordance  
          with established school policy;

14           C. Use does not create additional expense to the school  
16           unit;

18           D. Use is directly related to the student's academic  
20           program; and

22           E. Use of potentially hazardous areas, such as shops,  
24           laboratories and the gymnasium, is supervised by a qualified  
          employee of the school administrative unit.

26           7. Use of school textbooks and library books. Subject to  
28           availability, a student receiving home instruction may use school  
30           textbooks if the number of particular copies are sufficient and  
          library books owned by the school unit subject to the following  
          conditions:

32           A. Use does not disrupt regular student, staff or special  
          program functions;

34           B. The student's sign-out period for a library book is the  
          same as that applicable to regularly enrolled students;

36           C. The student may sign out a textbook for a period not to  
38           exceed one year; and

40           D. The parent or guardian and student agree to reimburse  
42           the school unit for lost, unreturned or damaged library  
          books and textbooks and for consumable supplies used.

44           §5022. Admission to regular program

46           1. Placement. A student who has been receiving home-school  
48           instruction and who seeks admission to the regular school program  
50           must be placed in a grade commensurate with the level of the  
          student's academic achievement. Placement must be guided by the  
          following.

2           A. Grade level placement is determined by the locally  
4           designated appropriate school staff, based upon but not  
6           limited to such factors as the student's completed curricula  
8           and record of achievement, conferencing with the student's  
10           parent or guardian and administration of tests, if  
12           determined necessary.

14           B. The final grade level placement decision is based upon  
16           local school unit policy and procedures. That decision may  
18           be appealed to the school unit superintendent and, if  
20           desired, subsequently to the local school board, whose  
22           decision is final.

24           2. High school course credits and diploma eligibility. The  
26           following standards govern the awarding of course credits and a  
28           graduation diploma to a student receiving home-school instruction  
30           who seeks admission to the public high school.

32           A. A student shall earn high school credits for  
34           satisfactory completion of courses in the public high school  
36           pursuant to section 5021, subsection 2, paragraph A.

38           B. A student may earn credit for course work completed  
40           through home-school instruction if the principal determines  
42           both in advance and upon completion of the course that the  
44           course satisfies the requirements for awarding the credit.  
46           The principal may direct that the student undergo a test or  
48           tests to assist in making a determination relative to the  
50           awarding of credit.

C. Requests for transfer credit for equivalent instruction  
          completed at nonapproved private schools, at private schools  
          that elect not to meet requirements under section 2901 or  
          through other equivalent instruction programs must be  
          evaluated on the merits of the documentation provided. The  
          principal and guidance staff shall conduct these evaluations  
          on request by the student or the student's parent or  
          guardian.

D. Awarding of a high school diploma by the local school is  
          conditioned upon the student's demonstration of having  
          satisfied all course credit or other requirements  
          established by the local school board. The local board of  
          directors may establish resident credit requirements as a  
          precondition for the awarding of a local school unit diploma.

**§5023. Standards for participation when tuition payment is**  
**required**

2 When the local public school unit does not provide academic  
3 instruction for specific grade levels, the following applies for  
4 students enrolled in an approved program of equivalent  
5 instruction.

6 1. Class participation. The home-schooled student or the  
7 student's parent or guardian shall request authorization from the  
8 resident local school unit to apply to another school unit for  
9 permission to participate in classes or activities in that other  
10 school unit.

12 2. Tuition payment. Tuition payments for home-schooled  
13 student participation in a local school unit, including  
14 attendance at an applied technology center or an applied  
15 technology region, other than the applicant's resident district  
16 is the responsibility of the home-schooled student, the student's  
17 parent or guardian or the student's resident school  
18 administrative unit, in accordance with local school unit  
19 policy. Participation may not be unreasonably withheld.

20 3. Participation eligibility. A tuitioned home-schooled  
21 student is subject to the rules relating to eligibility for  
22 participation in cocurricular or extracurricular activities as  
23 may apply at the receiving school unit.

24 4. Interscholastic activities. A tuitioned home-schooled  
25 student attending classes in more than one receiving school unit  
26 is not eligible for participation in interscholastic activities  
27 at any local school unit.

28 **§5024. Local school unit policy**

29 Each school administrative unit shall develop and adopt a  
30 policy consistent with this subchapter. Establishment and  
31 administration of the local school unit policy is subject to the  
32 following.

33 1. Policy. Local school unit policy must be submitted to  
34 and placed on file in the department by January 1, 1997.

35 2. Implementation. Locally approved policy is implemented  
36 and administered by the local school unit.

37 3. Provision of information. At the request of the student  
38 or the student's parent or guardian, public schools shall make  
39 available to home-schooled students, in a form determined by the  
40 school, information regarding access to public school resources  
41 and services, participation in public school activities and  
42 attendance at public schools. This information must include:

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2 A. Requirements regarding initial health and developmental  
3 screening for motor skills, vision, hearing and  
4 immunization; and

6 B. Criteria for participation of home-schooled students in  
7 curricular, cocurricular and extracurricular activities.

8 4. Appeals. Appeals from administration and application of  
9 the local school unit policy are heard by the local school unit's  
10 school board, whose decision is final and binding.

12 **§5025. Compliance**

14 Appeals that question the local school unit's policy  
15 compliance with this subchapter must be made to the commissioner,  
16 whose decision is final and binding.

18 **Sec. 2. Construction; legislative intent; cooperation between the State**  
19 **and local school administrative units.** With respect to the provision  
20 for equivalent instruction under the Maine Revised Statutes,  
21 Title 20-A, section 5001-A, subsection 3, paragraph A,  
22 subparagraph (3), the Legislature recognizes that the term  
23 "equivalent" is intended to mean meeting state standards, for  
24 alternate or other instruction and is not intended to mean the  
25 same as the education delivered in the public school system. It  
26 is the intention of the Legislature that, to meet the State's  
27 obligation to educate its children, the State and local school  
28 administrative units shall cooperate in the home instruction of  
29 any child who resides in that school administrative unit to the  
30 degree that the level of cooperation does not interfere with the  
31 responsibilities to students enrolled in regular programs.'

32 Further amend the bill by inserting at the end before the  
33 statement of fact the following:

36 **FISCAL NOTE**

38 This bill requires school administrative units to develop  
39 and adopt policies related to students enrolled in equivalent  
40 instruction programs. The additional costs of this state mandate  
41 are expected to be minor on an individual unit basis. Pursuant  
42 to the Mandate Preamble, the two-thirds vote of all members  
43 elected to each House exempts the State from the constitutional  
44 requirement to fund 90% of the additional local costs.

46 The Department of Education will incur some minor additional  
47 costs to hear appeals. These costs can be absorbed within the  
48 department's existing budgeted resources.'

# COMMITTEE AMENDMENT



COMMITTEE AMENDMENT "A" to H.P. 1327, L.D. 1818

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**STATEMENT OF FACT**

4

This amendment makes a number of technical changes to the bill and clarifies responsibilities of students, parents and school administrative units concerning access to public schools by home-schooled students. The amendment also adds a fiscal note to the bill.

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