

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: 3-26-98

(Filing No. H-1088)

EDUCATION AND CULTURAL AFFAIRS

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1622, L.D. 2252, Bill, "An Act to Implement the Recommendations of the Governor's Commission on School Facilities"

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.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Members of the Joint Standing Committee on Education and Cultural Affairs during both the 117 th Legislature and the 118th Legislature have forged partnerships with the Department of Education, the State Board of Education and other interested parties to address the growing needs of many communities across the State that continue to struggle with unmet school construction needs due to growing student populations, overcrowded schools and the significant increase in the use of portable leased classrooms to meet urgent space needs, inadequate facilities to meet the demands of modern educational programs, strained local budgets that have deferred the maintenance of

COMMITTEE AMENDMENT

existing school facilities and limited state contributions to support school construction costs; and

Whereas, conditions existing in certain public schools resulting in a serious inability to provide appropriate educational programs and services consistently throughout the State constitute an immediate threat to the health, safety and general welfare of the citizens of the State; and

Whereas, the Governor's Commission on School Facilities has conducted a comprehensive review to determine the true scope of local school construction needs throughout the State and has prepared a sensible and feasible plan for public financing to meet current and future school construction needs; and

Whereas, these problems require immediate and decisive action in implementing this comprehensive statewide strategy so that the most efficient investment of public resources in both new construction and renovation of existing school facilities will result in the design of effective learning environments for student achievement; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

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

'Sec. 1. 20-A MRSA §1, sub-§19-A is enacted to read:

19-A. Newly incurred capital outlay and debt service.
"Newly incurred capital outlay and debt service" means capital outlay and debt service costs for a school construction project approved for funding by the voters on or after July 1, 1998.

Sec. 2. 20-A MRSA §4001, sub-§3, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. The term of a lease shall must be at least equal to the period during which similar property of the unit is used. A lease may not exceed a term of 10 5 years.

Sec. 3. 20-A MRSA §4001, sub-§7 is enacted to read:

7. Maintenance and capital improvement program. A school administrative unit, including the unorganized territories, shall maintain a maintenance and capital improvement program for all

2 school facilities, utilizing a maintenance template and software
3 provided by the department and shall annually allocate a minimum
4 percentage of the replacement value of its real estate to
5 facility maintenance, capital improvement or capital reserve
6 accounts. The department and the Department of Administrative
7 and Financial Services, Bureau of General Services shall
8 establish the minimum percentage in consultation with the
9 education community. The Department of Education and the Bureau
10 of General Services shall adopt rules necessary to implement this
11 subsection. Rules adopted by the Department of Education and the
12 Bureau of General Services to implement this subsection are major
13 substantive rules pursuant to Title 5, chapter 375, subchapter
14 II-A.

15 **Sec. 4. 20-A MRS §5804, sub-§3** is enacted to read:

16 **3. Debt service factor.** Notwithstanding subsection 1,
17 beginning with the 1999-2000 school year, a school administrative
18 unit may charge a debt service factor for newly incurred capital
19 outlay and debt service, as defined in section 1, subsection
20 19-A. The debt service factor must be an amount agreed upon by
21 both the sending and receiving units, with the approval of the
22 commissioner, and may not exceed 10% of a school's legal tuition
23 rate per student in any one year. The debt service factor
24 adjustment must be limited to a period of time not to exceed the
25 receiving unit's repayment period for newly incurred capital
26 outlay and debt service. The percentage of the debt service
27 factor must be proportional to the cost of the project and the
28 number of tuition students.

29 **Sec. 5. 20-A MRS §5805, sub-§4** is enacted to read:

30 **4. Debt service factor.** Notwithstanding subsections 1 and
31 2, beginning with the 1999-2000 school year, a school
32 administrative unit may charge a debt service factor for newly
33 incurred capital outlay and debt service, as defined in section
34 1, subsection 19-A. The debt service factor must be an amount
35 agreed upon by both the sending and receiving units, with the
36 approval of the commissioner, and may not exceed 10% of a
37 school's legal tuition rate per student in any one year. The
38 debt service factor adjustment must be limited to a period of
39 time not to exceed the receiving unit's repayment period for
40 newly incurred capital outlay and debt service. The percentage
41 of the debt service factor must be proportional to the cost of
42 the project and the number of tuition students.

43 **Sec. 6. 20-A MRS §15603, sub-§8, ¶B,** as amended by PL 1989, c.
44 466, §1, is further amended to read:

2 B. Lease costs for school buildings when the leases,
3 including leases under which the school administrative unit
4 may apply the lease payments to the purchase of portable,
5 temporary classroom space beginning January 1, 1988, have
6 been approved by the commissioner for the year prior to the
7 year of allocation. Beginning July 1, 1998 lease cost
8 includes:

9
10 (1) Administrative space. A school administrative
11 unit may lease administrative space with state support
12 until July 1, 2003. A school administrative unit
13 engaged in a lease-purchase agreement for
14 administrative space is eligible for state support
15 until July 1, 2008;

16 (2) Temporary interim nonadministrative space. A
17 school administrative unit with state-approved need for
18 nonadministrative space may lease temporary interim
19 space, with state support, for a maximum of 5 years. A
20 school administrative unit engaged in a lease-purchase
21 agreement for such space is eligible for state support
22 for a maximum of 10 years. A school administrative
23 unit may appeal this provision of this subparagraph to
24 the board if the provision presents an undue burden.
25 The board's decision is final; and

26
27 (3) Permanent small nonadministrative space that
28 replaces or is converted from existing approved leased
29 portable space. The existing leased portable space
30 will be eligible for state support until July 1, 2003.
31 Once an existing leased portable space has been
32 converted into a permanent nonadministrative space
33 through an approved lease-purchase agreement, such
34 space is eligible for state support for a maximum of
35 ten years.

36
37 The Department of Education shall adopt rules necessary to
38 implement this paragraph. Rules adopted by the Department
39 of Education to implement this paragraph are major
40 substantive rules pursuant to Title 5, chapter 375,
41 subchapter II-A;

42
43 **Sec. 7. 20-A MRSA §15603, sub-§8, ¶C,** as amended by PL 1993, c.
44 410, Pt. F, §10, is further amended to read:

45
46 C. The portion of the tuition costs applicable to the
47 insured value factor computed under section 5806, for the
48 base year; and

2 **Sec. 8. 20-A MRSA §15603, sub-§8, ¶E**, as amended by PL 1991,
c. 268, §2, is further amended to read:

4 E. Purchase or cost of construction of portable, temporary
6 classroom space as approved by the commissioner beginning
"portable, temporary classroom space" means a project
8 consisting of one or more mobile or modular buildings that
are at least partially constructed off site and are designed
10 to be moved to other sites with a minimum of disassembly and
reassembly. "Portable, temporary classroom space" includes,
12 but is not limited to, space for regular classrooms, small
group instruction, libraries, clinics and guidance and
14 administrative office space, including principal and
superintendent offices. ~~The amount includable for~~
16 ~~determining the subsidy for a school administrative unit for~~
~~the purchase or construction of portable temporary classroom~~
18 ~~space may not exceed the amount that would have been paid~~
~~for lease of a comparable classroom.~~ The department shall
20 adopt rules for approving the purchase, construction or
lease-purchase of portable temporary classroom space, and
22 for determining the amount includable for subsidy purposes.
Lease-purchase agreements may not exceed a term of 10
24 years. Approved costs are those for the year prior to the
year of allocation. The department shall adopt rules
26 necessary to implement this paragraph. Rules adopted by the
department to implement this paragraph are major substantive
28 rules pursuant to Title 5, chapter 375, subchapter II-A; and

30 **Sec. 9. 20-A MRSA §15603, sub-§8, ¶F** is enacted to read:

32 F. Beginning in school year 2002-03, 1/5 of the aggregate
amount of the approved leases defined in paragraphs B and E
34 and an additional 1/5 for each year thereafter may not be
used to determine the debt service millage limit calculated
36 under section 15611, subsection 1, paragraph A. The local
share for the 1/5 of the aggregate amount of the approved
38 leases defined in paragraphs B and E and an additional 1/5
for each year thereafter must be calculated as the same
40 percentage determined under section 15609, subsection 1,
paragraph A. The department shall adopt rules necessary to
42 implement this paragraph. Rules adopted by the department
to implement this paragraph are major substantive rules
44 pursuant to Title 5, chapter 375, subchapter II-A.

46 **Sec. 10. 20-A MRSA §15907, sub-§1**, as amended by PL 1983, c.
48 426, §4, is further amended to read:

50 1. **Payment of State's share.** The state allocation for
debt service costs shall must be paid by the commissioner to

each unit according to that unit's debt retirement schedule and rules adopted pursuant to this chapter.

A. For all current and future debt service costs payable by a school administrative unit to the Maine Municipal Bond Bank, the state allocation for debt service costs must be paid by the commissioner to the bond bank or its designated trustee one business day prior to the date of the unit's next debt service cost payment as outlined in the unit's debt retirement schedule and in accordance with rules adopted pursuant to this chapter. If the payment date falls on a Monday, payment must be made to the bond bank on the preceding Friday.

B. At least 60 days prior to the date of the school administrative unit's next debt service cost as outlined in the unit's debt retirement schedule, the commissioner shall inform the bond bank as to the unit's state share of debt service for its next debt service payment.

Sec. 11. 20-A MRSA §15918 is enacted to read:

§15918. Maintenance and capital improvement plan assistance

The department and the Department of Administrative and Financial Services, Bureau of General Services shall provide assistance to school administrative units, including the unorganized territories, in establishing maintenance and capital improvement programs under section 4001, subsection 7. The department, with assistance from the Department of Administrative and Financial Services, Bureau of General Service, shall provide a maintenance template, software and assistance with initial inventory inputs to ensure consistent comprehensive local maintenance and capital improvement plans and to provide for electronic reporting of maintenance and capital improvement progress by school administrative units to the department. The Department of Education and the Bureau of General Services shall adopt rules necessary to implement this section. Rules adopted by the Department of Education and the Bureau of General Services to implement this section are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 12. 30-A MRSA §5953-E is enacted to read:

§5953-E. Maine School Facilities Finance Program

There is established the Maine School Facilities Finance Program to promote efficient capital financing activities for the construction, renovation and maintenance of school facilities and the leasing and lease-purchase of school facilities.

2 1. Loan application. In addition to the other forms of
3 financial assistance available under this chapter, a public
4 school, school administrative district, municipality, community
5 school district or other school administrative unit may apply for
6 a loan from the School Revolving Renovation Fund under section
7 6006-F, in this section called the "fund," the proceeds of which
8 must be used to finance the cost of school repair and renovation
9 under section 6006-F, subsection 3, as designated by the
10 Department of Education.

12 A. The bank may prescribe an application form or procedure
13 for a school administrative unit to apply for a loan under
14 this section. The application must include any information
15 that the bank determines necessary for the purpose of
16 implementing this section and section 6006-F.

18 2. Loan; loan agreements. Loans from the fund are subject
19 to this subsection.

20 A. The bank may make loans from the fund to a school
21 administrative unit for one or more of the purposes set
22 forth in subsection 1. The loans may be made in conjunction
23 with, at the same time as or as part of a project that
24 obtains any other form of assistance or loan under this
25 chapter. Each loan is subject to the following conditions.

26 (1) The total amount of loans outstanding at any one
27 time from the fund may not exceed the balance of the
28 fund, provided that the proceeds of bonds or notes of
29 the bank deposited in the fund, revenues from other
30 sources deposited in the fund, repayments from
31 outstanding loans due and payable and binding financial
32 commitments of the United States or any other 3rd party
33 to deposit money in the fund are included in
34 determining the fund balance.

35 (2) The loan must be evidenced by a municipal bond,
36 loan agreement or other debt instrument, payable by the
37 school administrative unit over a term not to exceed 15
38 years with annual principal or interest payments
39 commencing not later than one year after the project
40 being financed is completed.

41 (3) The rate of interest charged for the loans may not
42 exceed 0%. The bank, pursuant to a determination by
43 the Department of Education under section 6006-F, may
44 provide loans to a school administrative unit with
45 forgiveness of principal or an effective interest rate
46 of less than 0%. A school unit must pay back by the
47 of less than 0%. A school unit must pay back by the
48 of less than 0%. A school unit must pay back by the
49 of less than 0%. A school unit must pay back by the
50 of less than 0%. A school unit must pay back by the

2 end of the term of the loan an amount no less than 30%
3 of the original principal amount of the loan nor more
4 than 70% of the original principal amount of the loan.

6 B. Loans made to a school administrative unit by the bank
7 under this section must be evidenced by and made in
8 accordance with the terms and conditions specified in a loan
9 agreement to be executed by the bank and the school
10 administrative unit. The loan agreement must specify the
11 terms and conditions of disbursement of loan proceeds. The
12 loan agreement must state the term, rate of interest, any
13 amount of principal forgiveness, scheduling of loan
14 repayments and any other terms and conditions determined
15 necessary or desirable by the bank. Loans made to a school
16 administrative unit by the bank under this section may
17 include provisions for forgiveness of principal payments or
18 loan repayment computation that results in an effective
19 negative interest rate.

20 3. Loan management. Proceeds from any indebtedness from
21 the fund incurred by a school administrative unit for the
22 purposes of new construction, renovation or capital acquisition
23 must be deposited in the bank. Proceeds from any other
24 indebtedness incurred by a school administrative unit for the
25 purposes of new construction, renovation or capital acquisition
26 may be deposited in the bank. Any proceeds held must be invested
27 by the bank for the benefit of the school administrative unit.
28 The bank shall pay to a school administrative unit those amounts
29 necessary for incurred costs or for reimbursement for incurred
30 costs associated with the project for which the indebtedness was
31 incurred. Funds from any indebtedness from the fund remaining
32 after payment of all eligible project and financing costs must be
33 deposited in the fund.

34 4. Eligibility certification. A loan to a school
35 administrative unit may not be made under this section until:

37 A. The applicant certifies to the bank that it has secured
38 all permits, licenses and approvals necessary to undertake
39 the renovations and construct the improvements to be
40 financed by the loan;

41 B. The applicant has been designated by the Department of
42 Education as eligible to receive the loan; and

43 C. The applicant demonstrates to the satisfaction of the
44 bank that it has the ability to repay the loan made to the
45 school administrative unit by the bank.
46
47
48

The Department of Education and the bank shall adopt rules necessary to implement this section. Rules adopted by the Department of Education and the bank to implement this section are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 13. 30-A MRSA §§6006-E and 6006-F are enacted to read:

§6006-E. Maine School Facilities Finance Program master lease

In addition to and in furtherance of any other assistance available to a school administrative unit in this chapter, the bank, in cooperation with the Department of Education, shall establish a lease program for buildings to be used by all school administrative units whose school facility lease payments receive reimbursement, subsidy or other payment from the State. For the purposes of this section, a lease program is a system for awarding leases for a school administrative unit pursuant to a competitive bidding process. All proceeds from leases administered by the bank must be held and invested by the bank and paid to the school administrative unit to reimburse incurred costs associated with capital acquisitions, leases or improvements approved by the Department of Education.

§6006-F. School Revolving Renovation Fund

1. **Fund established.** The School Revolving Renovation Fund, referred to in this section as the "fund," is established in the custody of the bank.

2. **Administration.** The bank shall administer and invest the fund. The fund must be established and held separate and apart from any other funds or money of the State or the bank and must be used and administered exclusively for the purposes authorized in this section. The fund consists of:

A. Sums that may be appropriated by the Legislature or transferred to the fund by the Treasurer of State;

B. Principal and interest received from the repayment of loans made from the fund;

C. Capitalization grants and awards made to the State or an instrumentality of the State by the United States for any of the purposes for which the fund has been established. These amounts may be paid directly into the fund without appropriation by the State and the bank is designated as the recipient for the State of any such funds;

D. Interest earned from the investment of fund balances;

2 E. The proceeds of any bonds or notes issued by the State
3 or the bank sold for the purpose of deposit in the fund;

4 F. Funds from school construction audit recoveries; and

5 G. Other funds and gifts in kind or cash from any public or
6 private source received for use for any of the purposes for
7 which the fund has been established and that the bank and
8 the Department of Education may solicit from any 3rd parties
9 such as foundations or corporations, including the use of
10 tax credits as available to support activities authorized
11 for the fund.

12 3. Purposes. The fund may be used:

13 A. To make loans to school administrative units for school
14 repair and renovation.

15 (1) The following repair and renovation needs receive
16 first priority status:

17 (a) Repair or replacement of a roof on a school
18 building;

19 (b) Bringing a school building into compliance
20 with the federal Americans with Disabilities Act,
21 42 United States Code, Section 12101 et seq.;

22 (c) Improving air quality in a school building;

23 (d) Removing asbestos from or abating asbestos in
24 a school building;

25 (e) Removing underground oil storage tanks on the
26 grounds of a school building; and

27 (f) Undertaking other health, safety and
28 compliance repairs.

29 (2) Repairs and improvements not related to health,
30 safety and compliance repairs receive 2nd priority
31 status. Those repairs and improvements are limited to
32 a school building structure, windows and doors and to a
33 school building water or septic system.

34 (3) Upgrade of learning spaces in school buildings and
35 small-scale capital improvements receive 3rd priority
36 status.

2 (4) The Commissioner of Education may approve other
 necessary repairs;

4 B. To make loans to refund bonds or notes of a school
 administrative unit issued for the purpose of financing any
6 repair authorized under paragraph A and certified under
 subsection 5, if sold after July 1, 1998;

8 C. To guarantee or insure, directly or indirectly, the
10 payment of notes or bonds issued or to be issued by a school
 administrative unit for the purpose of financing any repair
12 authorized under paragraph A and certified under subsection
 5;

14 D. To guarantee or insure, directly or indirectly, funds
16 established by a school administrative unit for the purpose
 of financing any repair authorized under paragraph A;

18 E. To deposit with a lending institution or with a trustee
20 bank, available fund balances to offset loan balances for
 school administrative districts undertaking projects
22 authorized by paragraph A and certified under subsection 5;

24 F. To invest available fund balances and credit the net
 interest income on those balances to the fund;

26 G. To invest as a source of revenue or security for the
28 payment of principal and interest on general or special
 obligations of the bank if the proceeds of the sale of the
30 obligations have been deposited in the fund, or if the
 proceeds of the sale of the obligations are used for the
32 purposes authorized in paragraph A and certified under
 subsection 5, or as a source of revenue to subsidize the
34 school administrative unit loan payment obligations;

36 H. To pay the costs of the bank and the Department of
 Education associated with the administration of the fund and
38 projects financed by the fund, except that no more than the
 lesser of 2% of the aggregate of the highest fund balances
40 in any fiscal year and 4% of the combined value of any
 capitalization grants provided by the United States for
42 deposit in the fund may be used for these purposes. The
 Commissioner of Education is authorized to receive revenue
44 from the fund administered by the bank. Funds provided to
 the Department of Education from the fund must be deposited
46 in a nonlapsing dedicated account to be used to carry out
 the purposes of this section; and

48 I. To pay the reasonable costs of services provided to
50 school administrative units by the Department of

2 Administrative Services, Bureau of General Services, for
3 oversight of school construction and renovation projects.
4 Notwithstanding Title 5, section 1742, subsection 7, .4% of
5 the total amount initially allocated to the fund must be
6 transferred to the Bureau of General Services upon the
7 effective date of this section.

8 **4. Priorities.** Periodically, and at least annually, the
9 Department of Education shall prepare and certify to the bank a
10 project priority list of those school administrative units whose
11 projects are eligible for loans under this section. In
12 establishing the priority list, the department shall grant
13 special consideration to projects that include urgent health and
14 safety needs. The department shall submit with the list the
15 factors considered when determining the priorities.

16 **5. Eligibility terms.** The bank and the Department of
17 Education shall develop by rule the terms of repayment of loans.
18 A loan made pursuant to this section may not carry an interest
19 rate higher than 0%. A loan may be made only if a project is
20 certified by the Department of Education as eligible for
21 financing under this section and is on the priority list prepared
22 under subsection 4. The repayment period may vary depending upon
23 the financial condition of a school administrative unit as
24 identified by the Department of Education.

25 **6. Forgiveness of principal payments.** The fund must
26 provide direct grants by forgiving the principal payments of a
27 loan for an eligible school administrative unit. The amount of
28 the forgiveness of principal payments must be determined by the
29 school administrative unit's state share percentage of debt
30 service costs as determined in Title 20-A, section 15611, not to
31 exceed:

32 A. Seventy percent and no less than 30% for health, safety
33 and compliance;

34 B. Seventy percent and no less than 30% for repairs and
35 improvements; and

36 C. Fifty percent and no less than 20% for learning space
37 upgrades.

38 **7. Establishment of accounts.** The bank may establish
39 accounts and subaccounts within the fund as it determines
40 desirable to effectuate the purposes of this section, including,
41 but not limited to, accounts to segregate a portion or portions
42 of the fund as security for bonds issued by the bank for deposit
43 in the fund and to be invested for the benefit of specified
44 projects receiving financial assistance from the fund.

2 **8. Rules.** The Department of Education and the bank shall
3 adopt rules necessary to implement this section. Rules adopted
4 by the Department of Education and the bank to implement this
5 section are major substantive rules pursuant to Title 5, chapter
6 375, subchapter II-A.

8 **Sec. 14. 30-A MRSA §6014**, as amended by PL 1989, c. 104, Pt.
9 C, §§8 and 10, is further amended to read:

10 **§6014. Governmental unit intercept**

12 The Treasurer of State may receive from the Federal
13 Government any amount of money as appropriated, allocated,
14 granted, turned over or in any way provided for the purposes of
15 the bank or this chapter. Unless otherwise directed by federal
16 authority, these amounts shall must be credited to and deposited
17 in the General Fund and are available to the bank.

18 The Treasurer of State shall pay and deposit in the General
19 Fund and make available to the bank, any funds or money in the
20 treasurer's custody or control whether the funds or money is
21 available because of any grant, allocation or appropriation by
22 the Federal Government or the State or any state agency to assist
23 any governmental unit in paying its municipal securities or
24 school construction loan liability under section 5953-E, referred
25 to in this section as "loan liability," owned or held by the
26 bank, or required by the terms of any other law to be paid to
27 holders or owners of municipal securities or loan liability upon
28 failure or default of a governmental unit to pay the principal of
29 or interest on its municipal securities or loan liability when
30 due and payable, to the extent that any such funds or money is
31 applicable with respect to municipal securities or loan liability
32 of a particular governmental unit which that are then owned or
33 held by the bank and as to which that governmental unit has
34 failed or defaulted to make payment of principal or interest as
35 and when due and payable.

36 To the extent that the Treasurer of State is the custodian
37 of any funds or money due or payable to a governmental unit at
38 any time after written notice to the Treasurer of State from the
39 bank to the effect that the governmental unit has not paid or is
40 in default as to the payment of principal of or interest on any
41 municipal securities or loan liability of that governmental unit
42 then held or owned by the bank, the Treasurer of State shall
43 withhold the payment of such funds or money from the governmental
44 unit until the amount of the principal or interest then due and
45 unpaid has been paid to the bank, or the Treasurer of State has
46 been advised that arrangements, satisfactory to the bank, have
47 been made for the payment of the principal and interest.

2 **Sec. 15. Major substantive rules; emergency rulemaking.**

3 Notwithstanding any other provision of law, major substantive
4 school construction and renovation rules authorized to be
5 provisionally adopted by the Department of Education under this
6 Act must be initially adopted as emergency rules under the
7 provisions of the Maine Revised Statutes, Title 5, sections 8054
8 and 8073. In adopting emergency major substantive rules as
9 provided in this section, the department must hold at least one
10 public hearing on the rules, publish notice of the rulemaking at
11 least 3 to 10 days prior to the public hearing under Title 5,
12 section 8053, subsection 5, paragraph A and comply with Title 5,
13 section 8056, subsection 1, paragraphs A and B. Emergency major
14 substantive rules adopted by the department under this section
15 must also be provisionally adopted and filed with the Legislature
16 for review during the First Regular Session of the 119th
17 Legislature.

18 **Sec. 16. Use of alternative delivery systems; stakeholder group.**

19 The Department of Education, the State Board of Education and the
20 Department of Administrative and Financial Services, Bureau of
21 General Services shall establish a stakeholder group to review
22 and discuss alternative delivery systems for school
23 construction. The stakeholder group review shall include, but
24 may not be limited to the following:

25 1. Defining circumstances under which alternative delivery
26 systems would be applicable to school construction projects with
27 clear definitions of each circumstance;

28 2. Establishing clear rules for each of the circumstances
29 described in subsection 1; and

30 3. Ensuring adequate oversight of the alternative delivery
31 system process from appropriate state agencies.

32 The stakeholder group includes, but is not limited to,
33 representatives of the following stakeholders: the Department of
34 Education; the State Board of Education; the Department of
35 Administrative and Financial Services, Bureau of General
36 Services; school superintendents; school boards; the Maine
37 Education Association; engineers; architects; and contractors.
38 The stakeholder group shall report its findings and any
39 recommended legislation to the joint standing committee of the
40 Legislature having jurisdiction over education and cultural
41 affairs in the 119th Legislature by January 30, 1999. The joint
42 standing committee of the Legislature having jurisdiction over
43 education and cultural affairs is authorized to report out a bill
44 based on the stakeholder group's report and recommended
45 legislation.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

Sec. 17. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

**EDUCATION, DEPARTMENT OF
School Revolving Renovation Fund**

All Other \$30,000,000

Provides funds to establish an interest-free revolving loan fund for school repairs.

Sec. 18. Payment. Any appropriations or allocations to the School Revolving Renovation Fund in the Department of Education in fiscal year 1998-99 must be paid to the Maine Municipal Bond Bank in accordance with the following schedule: \$15,000,000 on September 1, 1998; and \$15,000,000 on January 1, 1999.

Sec. 19. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

**EDUCATION, DEPARTMENT OF
School Construction**

All Other \$425,000

Provides funds for computer hardware and software to inventory public school facilities and establish maintenance and capital improvement plans in all Maine schools.

Sec. 20. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

**EDUCATION, DEPARTMENT OF
Support Systems**

Positions - Legislative Count (2.000)

2. 1. 2.

Personal Services \$100,523
All Other 15,000

4 Provides for the allocation of funds for one
6 Education Specialist III position and one
8 Education Specialist II position to manage
10 the Maine School Facilities Finance Program,
12 the School Revolving Renovation Fund, lease
and lease-purchase proposals, and to provide
assistance to all Maine schools in
developing facility maintenance plans.

14 **DEPARTMENT OF EDUCATION**

TOTAL \$115,523

16 **Sec. 21. Allocation.** The following funds are allocated from
18 Other Special Revenue to carry out the purposes of this Act.

1998-99

20 **ADMINISTRATIVE AND FINANCIAL SERVICES,**
22 **DEPARTMENT OF**

24 **Bureau of General Services**
Planning - Construction - Administration

26 All Other \$80,000

28 Provides for the allocation of funds to
30 procure necessary architectural and
32 engineering services for the bureau's
oversight of school construction and
renovation projects.

34 **Emergency clause.** In view of the emergency cited in the
36 preamble, this Act takes effect when approved.'

38 Further amend the bill by inserting at the end before the
40 summary the following:

42 **FISCAL NOTE**

1998-99

44 **APPROPRIATIONS/ALLOCATIONS**

46
48 General Fund \$30,425,000
50 Other Funds 195,523

REVENUES

Other Funds \$195,523

This bill includes General Fund appropriations to the Department of Education in fiscal year 1998-99 totalling \$30,425,000. Of this amount, \$30,000,000 is provided to establish an interest-free revolving loan and grant fund for school repairs. The fund will be administered by the Maine Municipal Bond Bank. An additional \$425,000 is provided for the hardware and software necessary to assist school administrative units to establish capital maintenance and improvement plans.

Allowing the public elementary and secondary school tuition rates to be increased by a debt service factor will not require additional appropriations to the Department of Education for General Purpose Aid for Local Schools. It may, however, result in higher tuition expenses for some school administrative units, while other units will realize increased revenue from tuition payments. The inclusion of a debt service factor in the tuition rate will increase the debt service allocations for the local sending units. General Fund appropriations, the amounts of which can not be determined, will be required in order to avoid a redistribution of funds that would otherwise have been provided to school administrative units for school operating costs in order to pay for these additional debt service costs.

The requirement that school administrative units maintain a maintenance and capital improvement program represents a state mandate pursuant to the Constitution of Maine. The total additional local costs can not be determined. General Fund appropriations will be required to fund at least 90% of the additional costs unless a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement. This bill does include a General Fund appropriation to provide the template and software needed by school administrative units for the maintenance and capital improvement program and allocations for positions within the Department of Education to provide technical assistance to units. It can not be determined if these resources represent 90% of the additional costs related to this maintenance and capital improvement program.

The requirement that school administrative units annually allocate a minimum percentage of their school budgets to reserve accounts for facility maintenance and capital improvements also represents a state mandate pursuant to the Constitution of Maine. The total additional local costs can not be determined. General Fund appropriations will be required to fund at least 90% of the additional costs unless a Mandate Preamble is amended to

COMMITTEE AMENDMENT

the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement.

The bill authorizes the use of 2.4% of the highest fund balance available in the School Revolving Renovation Fund to support the administrative costs of the Department of Education and the Department of Administrative and Financial Services, as well as those of the Maine Municipal Bond Bank which are estimated to be \$60,000 annually. The ability of this mechanism to cover the required administrative costs for longer than approximately two years can not be determined.

This bill includes an Other Special Revenue funds allocation of \$115,523 in fiscal year 1998-99 for the Department of Education for the salary, benefits and operating costs for two positions necessary to manage the new school renovation programs.

The bill also provides an Other Special Revenue funds allocation of \$80,000 to the Department of Administrative and Financial Services in fiscal year 1998-99 for the costs of procuring architectural and engineering services related to oversight of school construction and renovation projects.'

SUMMARY

This amendment amends the bill that provides for the implementation of recommendations from the Governor's Commission on School Facilities. The amendment also adds an emergency preamble, an emergency clause and a mandate preamble to the bill. The amendment accomplishes the following:

1. Increases from \$20,000,000 to \$30,000,000 an appropriation from the General Fund to fund the School Revolving Renovation Fund;

2. Provides that school construction and renovation rules authorized under this amendment are designated as major substantive rules; and, as provisionally adopted rules by the Department of Education, must be initially adopted as emergency rules under the provisions of the Maine Revised Statutes, Title 5, sections 8054 and 8073. In adopting emergency major substantive rules as provided, the Department of Education must hold at least one public hearing on the rules, publish notice of the rulemaking at least 3 to 10 days prior to the public hearing under Title 5, section 8053, subsection 5, paragraph A and comply with Title 5, section 8056, subsection 1, paragraphs A and B. These emergency major substantive rules must also be provisionally adopted and filed with the Legislature for review during the First Regular Session of the 119th Legislature; and

2 3. Authorizes the Department of Education, the State Board
3 of Education and the Department of Administrative and Financial
4 Services, Bureau of General Services to establish a stakeholder
5 group to review and discuss alternative construction methods and
6 delivery systems for school construction. The stakeholder group
7 shall report its findings and any recommended legislation to the
8 joint standing committee of the Legislature having jurisdiction
9 over education and cultural affairs in the 119th Legislature by
10 January 30, 1999.

12 Finally, the amendment also adds a fiscal note to the bill.