

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1656

S.P. 535

In Senate, March 15, 2001

An Act to Simplify and Reform the School Funding Formula.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

2 Sec. 1. 20-A MRSA c. 606-A, as amended, is repealed.

4 Sec. 2. 20-A MRSA c. 607-A is enacted to read:

6 CHAPTER 607-A

8 SCHOOL FINANCE ACT OF 2002

10 §15761. Short title; effect

12 This chapter is known and may be cited as the "School
14 Finance Act of 2002."

16 §15762. Definitions

18 As used in this chapter, unless the context otherwise
20 indicates, the following terms have the following meanings.

22 1. Average pupil count. "Average pupil count" is the
24 average of pupil counts taken on the following 3 dates:

26 A. October 1st of the year prior to the year of funding;

28 B. April 1st of the base year; and

30 C. October 1st of the base year.

32 2. Base year. "Base year" means the 2nd year prior to the
34 year of funding.

36 3. Debt service costs. "Debt service costs," for subsidy
38 purposes, includes:

40 A. Principal and interest costs for approved major capital
42 projects in the year of allocation, including the initial
44 local share of school construction projects that received
46 voter approval for all or part of their funding in
48 referendum in fiscal year 2002-03;

B. Lease costs for school buildings when the leases,
including leases under which the school administrative unit
may apply the lease payments to the purchase of portable,
temporary classroom space beginning January 1, 2005, have
been approved by the commissioner for the year prior to the
year of allocation. Beginning July 1, 2005 lease cost
includes:

2 (1) Administrative space. A school administrative
3 unit may lease administrative space with state support
4 until July 1, 2006. A school administrative unit
5 engaged in a lease-purchase agreement for
6 administrative space is eligible for state support
7 until July 1, 2011;

8 (2) Temporary interim nonadministrative space.

10 (a) A school administrative unit with
11 state-approved need for nonadministrative space
12 may lease temporary interim space, with state
13 support, for a maximum of 5 years. A school
14 administrative unit may appeal to the school board
15 if this division presents an undue burden. The
16 board's decision is final.

18 (b) A school administrative unit engaged in a
19 lease-purchase agreement for temporary interim
20 nonadministrative space is eligible for state
21 support for a maximum of 10 years; and

22 (3) Permanent small nonadministrative space that
23 replaces or is converted from existing approved leased
24 portable space. The existing leased portable space
25 will be eligible for state support until July 1, 2006.
26 Once an existing leased portable space has been
27 converted into a permanent nonadministrative space
28 through an approved lease-purchase agreement, such
29 space is eligible for state support for a maximum of 10
30 years.

31 The department shall adopt rules necessary to implement this
32 paragraph. Rules adopted by the department to implement
33 this paragraph are major substantive rules pursuant to Title
34 5, chapter 375, subchapter II-A;

35 C. The portion of the tuition costs applicable to the
36 insured value factor computed under section 5806, for the
37 base year;

38 D. Purchase or cost of construction of portable, temporary
39 classroom space as approved by the commissioner beginning
40 January 1, 2011. For the purposes of this section,
41 "portable, temporary classroom space" means a project
42 consisting of one or more mobile or modular buildings that
43 are at least partially constructed off site and are designed
44 to be moved to other sites with a minimum of disassembly and
45 reassembly. "Portable, temporary classroom space" includes,
46 but is not limited to, space for regular classrooms, small
47 classrooms, and other classroom space.

2 group instruction, libraries, clinics and guidance and
3 administrative office space, including principal and
4 superintendent offices. The department shall adopt rules
5 for approving the purchase, construction or lease-purchase
6 of portable, temporary classroom space, and for determining
7 the amount includable for subsidy purposes. Lease-purchase
8 agreements may not exceed a term of 10 years. Approved
9 costs are those for the year prior to the year of
10 allocation. The department shall adopt rules necessary to
11 implement this paragraph. Rules adopted by the department
12 to implement this paragraph are major substantive rules
13 pursuant to Title 5, chapter 375, subchapter II-A; and

14 E. Beginning in school year 2010-11, 1/5 of the aggregate
15 amount of the approved leases defined in paragraph B and an
16 additional 1/5 for each year thereafter may not be used to
17 determine the debt service millage limit calculated under
18 section 15611, subsection 1, paragraph A. The local share
19 for the 1/5 of the aggregate amount of the approved leases
20 defined in paragraph B and an additional 1/5 for each year
21 thereafter must be calculated as the same percentage
22 determined under section 15609, subsection 1, paragraph A.
23 The department shall adopt rules necessary to implement this
24 paragraph. Rules adopted by the department to implement
25 this paragraph are major substantive rules pursuant to Title
26 5, chapter 375, subchapter II-A.

27 4. Fiscal capacity. "Fiscal capacity" means the ability of
28 a municipality to raise property tax revenues as measured by the
29 state valuation of property subject to property tax assessment on
30 April 1st in the base year. The fiscal capacity of a unit is the
31 sum of the state valuations of its member municipalities in the
32 base year.

33 5. Foundation per pupil operating rate. "Foundation per
34 pupil operating rate" means the sum of operating costs in the
35 base year for all units divided by the State's average pupil
36 count.

37 6. Nonsubsidizable costs. "Nonsubsidizable costs" are not
38 considered in the calculation of the total allocation.
39 "Nonsubsidizable costs" includes the following:

40 (1) Community service costs;

41 (2) Major capital costs;

42 (3) Expenditures from all federal revenue sources,
43 except for amounts received under the United States
44 Code, Public Law 81-874;

2 (4) One-half of salary and benefit costs for
3 superintendents, assistant superintendents and
4 associate superintendents;

6 (5) Transportation costs not associated with
7 transporting students from home to school and back home
8 each day; and

10 (6) Costs payable to the Maine State Retirement System
11 under Title 5, section 17154, subsections 10 and 11.

12 **7. Operating costs.** "Operating costs" means the reasonable
14 and necessary costs of operating a school administrative unit
15 excluding program costs, debt service costs, state direct costs
16 and nonsubsidizable costs.

18 **8. Program costs.** "Program costs" includes the following:

20 (1) Bus purchase costs as defined in section 15603,
21 subsection 7;

22 (2) Early childhood educational program costs as
24 defined in section 15603, subsection 10;

26 (3) Special education costs as defined in section
27 15603, subsection 22;

28 (4) Transportation operating costs as defined in
30 section 15603, subsection 29; and

32 (5) Vocational education costs as defined in section
33 15603, subsection 30.

34 **9. Pupil count.** "Pupil count" means the total of resident
36 pupils counted in accordance with sections 5104-A and 6004
37 educated at public expense in kindergarten to grade 12.

38 **10. State share percentage.** "State share percentage" means
40 the following quotient expressed in percentage terms: the
41 numerator is the unit's operating cost subsidy calculated in
42 accordance with section 15763, subsection 2. The denominator is
43 the unit's subsidizable operating costs. For a unit whose
44 subsidizable operating cost is zero, the state share percentage
45 is also zero.

46 **11. Subsidizable operating costs.** "Subsidizable operating
48 costs" means, for each unit, costs that are equal to the product
49 of the foundation per pupil operating rate times the unit's
50 average pupil count.

2 12. Unit. "Unit" means the school administrative unit.

4 13. Year. "Year" means a fiscal year starting July 1st and
6 ending June 30th of the succeeding year.

8 **\$15763. Operating cost subsidy**

10 By March 31st of each year, the Legislature shall
12 appropriate funds to subsidize operating costs for all units for
14 the ensuing fiscal year.

16 1. Default appropriation. In the absence of timely
18 legislative action, the operating cost subsidy for the ensuing
20 year must be calculated and paid by the commissioner based on the
22 appropriation and the operating cost mill rate in effect for the
24 current year.

26 2. How calculated. The operating cost subsidy for each
28 unit is the amount of that unit's subsidizable operating costs
30 less its local share. The local share is the product of the
32 operating cost mill rate, under subsection 4, times the unit's
34 fiscal capacity.

36 If a unit fails to raise and provide toward operating costs a
38 level of funds sufficient to pay its local share, the State's
40 subsidy must be reduced by an amount equal to what the unit fails
42 to provide. The reduction in state subsidy must be added to the
44 commissioner's reserve fund and distributed in accordance with
46 subsection 5.

48 3. Minimum subsidy. If a unit's subsidy when calculated
50 under subsection 2 is less than 5% of its subsidizable operating
 costs, the unit shall, nevertheless, receive a subsidy that is
 equal to 5% of its subsidizable operating costs.

4. Operating cost mill rate. The operating cost mill rate
 is a single statewide property mill rate that is calculated each
 year by the commissioner to satisfy the following condition:
 when the operating cost mill rate is applied to the fiscal
 capacity of each unit eligible for subsidy under subsection 2,
 the subsidies that result under the rules of this section,
 including the rule for minimum subsidies in subsection 3,
 exhausts 99.5% of the amount appropriated by the State for
 operating costs.

5. Commissioner's reserve fund. One-half of 1% of the
 amount appropriated under this section plus subsidy reductions
 under subsection 2 must be held by the commissioner in a reserve
 fund that the commissioner may expend during the year to make

2 adjustments resulting from audits or necessary corrections to
3 subsidy entitlements under this chapter. At the end of the year,
4 any balance then remaining in the reserve fund must be
5 distributed to all units eligible for subsidy under subsection 2
6 in proportion to each unit's operating cost subsidy level.

7 **§15764. Program cost subsidy**

8
9 By March 31st of each year, the Legislature shall
10 appropriate funds to subsidize program costs for all eligible
11 school units for the ensuing year.

12
13 **1. Default appropriation.** In the absence of timely
14 legislative action, the program cost subsidy for the ensuing year
15 must be calculated and paid by the commissioner based on the
16 program appropriation and the program millage limit in effect for
17 the current year.

18
19 **2. How calculated.** The program cost subsidy for each unit
20 is the product of that unit's program costs times the state share
21 percentage for that unit.

22
23 **3. Appropriation less than subsidy.** If the appropriation
24 for program costs is insufficient to pay the subsidies calculated
25 in accordance with subsection 2, the subsidy to each unit
26 eligible to receive a program cost subsidy must be reduced in
27 proportion to each unit's average pupil count.

28
29 **4. Appropriation exceeding subsidy.** If the appropriation
30 for program costs exceeds the amount necessary to pay the
31 subsidies calculated in accordance with subsection 2, then the
32 excess must be distributed to pay that portion of each unit's
33 program costs that exceeds its program circuit breaker. A unit's
34 program circuit breaker is the amount calculated by multiplying
35 the program millage times the fiscal capacity of that unit.

36
37 **5. Program millage limit.** The program millage limit is a
38 single statewide property tax mill rate that is calculated each
39 year by the commissioner to satisfy the following condition:
40 when the program millage limit is applied to the fiscal capacity
41 of each unit, the subsidies that result under the rules of this
42 section exhaust the State's program cost appropriation.

43 **§15765. Debt service subsidy**

44
45 By March 31st of each year, the Legislature shall
46 appropriate funds to subsidize debt service costs for all
47 eligible school units for the ensuing fiscal year.
48

2 1. Default appropriation. In the absence of timely
legislative action, the debt service subsidy for the ensuing year
4 must be calculated and paid by the commissioner based on the debt
service appropriation and the debt service millage limit in
effect for the current year.

6
8 2. How calculated. The direct service subsidy for each
unit is the product of that unit's debt service times the state
share percentage for that unit.

10
12 3. Appropriation less than subsidy. If the appropriation
for debt service is insufficient to pay the subsidies calculated
14 in accordance with subsection 2, then the subsidy to each unit
eligible to receive a debt service subsidy must be reduced in
proportion to each unit's average pupil count.

16
18 4. Appropriation exceeding subsidy. If the appropriation
for debt service exceeds the amount necessary to pay the
20 subsidies calculated in accordance with subsection 2, the excess
must be distributed to pay that portion of each unit's debt
22 service that exceeds the unit's debt service circuit breaker. A
unit's debt service circuit breaker is the amount calculated by
24 multiplying the debt service millage limit times the fiscal
capacity of that unit.

26 5. Debt service millage limit. The debt service millage
limit is a single statewide property tax mill rate that is
28 calculated each year by the commissioner to satisfy the following
condition: when the debt service millage limit is applied to the
30 fiscal capacity of each unit, the subsidies that result under the
rules of this section exhaust the State's debt service
32 appropriation.

34 **§15766. State direct costs**

36 By March 31st of each year, the Legislature shall
appropriate funds to pay state direct costs for all eligible
38 school units for the ensuing fiscal year. Funds for state direct
costs are limited to the amounts appropriated by the Legislature
40 for those purposes. The commissioner shall prorate payments to
units if the amounts appropriated are insufficient to make
42 payments in full.

44 **§15767. Cushion subsidies**

46 Hardship cushions as provided in subsections 1 or 2 must be
paid from funds generated through setting a maximum allowable
48 percentage of gain as provided in subsection 3.

2 1. Cushions through June 30, 2007. If the combined changes
4 for operating costs and program costs subsidies calculated in
6 sections 15603 and 15604 would represent a loss to a unit from
8 fiscal year 2005-06 to fiscal year 2006-07, the commissioner
shall distribute to each such unit an additional cushion subsidy
sufficient to limit the unit's loss to 1/2 of what it would
otherwise be. There is no cushion for fiscal year 2007-08.

10 2. Cushions for fiscal years beginning July 1, 2007. For
12 fiscal years that begin on or after July 1, 2007, if the combined
14 changes for operating cost and program cost subsidies calculated
16 in sections 15603 and 15604 represent a loss to a unit in excess
of 5% from one fiscal year to the next, and if that unit's state
share percentage in the first of the 2 fiscal years exceeds 30%,
the commissioner shall distribute to each unit an additional
cushion subsidy sufficient to limit the unit's loss to 5%.

18 3. Maximum gain. As necessary to fund the cushions in
20 subsection 1 or 2, the commissioner shall determine a maximum
22 allowable percentage of gain that units may receive from one
24 fiscal year to the next in combined operating cost and program
26 cost subsidies. The commissioner shall set the maximum
percentage for each year at a rate such that the excess funds
generated equal the amount necessary to pay the cushions required
under subsection 1 or 2.

28 **Sec. 3. Supplements the Maine Revised Statutes, Title 20-A, chapter
606.** This chapter supplements the Maine Revised Statutes, Title
20-A, chapter 606, whose provisions remain in effect except when
in conflict with this chapter.

32 **Sec. 4. Revisor's review; cross-references.** The Revisor of
34 Statutes shall review the Maine Revised Statutes and include in
36 the errors and inconsistencies bill submitted to the Second
38 Regular Session of the 120th Legislature pursuant to Title 1,
section 94, any sections necessary to correct and update any
cross-references in the statutes to provisions of law repealed in
this Act.

40 **Sec. 5. Effective date.** This Act takes effect July 1, 2002.

42 SUMMARY

44
46 Effective for the fiscal year that begins July 1, 2002, this
48 bill divides general purpose aid into its 4 component parts:
operating costs, program costs, debt service and direct state
costs, formerly called adjustments. The bill requires that all 4
components receive separate default appropriations to take effect

2 if the Legislature fails to appropriate new funds prior to March
31st of each year.

4 Income and cost-of-living factors are no longer included.
5 Operating, program and debt service subsidies are all
6 proportional to a school unit's fiscal capacity. The need for
7 percentage reduction is eliminated. The first dollars available
8 go to the poorest of school units. Program or debt service costs
9 that exceed a circuit breaker amount are fully subsidizable.
10 Circuit breaker levels are not fixed but float with the level of
the annual appropriation.

12 The operating cost subsidy for each unit is calculated as
14 follows:

16	Foundation per pupil	=	Statewide base	Divided by State's
	operating rate		year operating	average pupil
18			costs	count
20	A unit's subsidizable	=	Foundation per	x Average pupil
	operating costs		pupil operating	count for the
22			rate	unit
24	Local share of	=	Operating cost	x Fiscal capacity
	operating costs		mill rate	of the unit
26				

28 "Operating cost mill rate" is a calculated figure that
floats to meet the State's annual appropriation.

30 The state subsidy is equal to the unit's subsidizable
32 operating costs less the local share, but not less than 5% of the
unit's costs.

34 A school unit that fails to raise its local share of
36 operating costs will lose a portion of its subsidy equal to what
it fails to provide. No such reduction is necessary for program
38 and debt service subsidies because they continue to be calculated
on the basis of the school unit's own approved expenditures.

40 Pupil count averaging is extended over 3 separate dates,
42 rather than 2 as provided in present law. Thus, changes in pupil
counts will have a more gradual impact on subsidy changes.

44 The bill contains transition cushions to buffer the change
46 from the Maine Revised Statutes, Title 20-A, chapter 606-A to
chapter 607-A over a period of 2 fiscal years. For those school
48 units who may lose subsidy under the law, only 1/2 the loss will
be recognized in the first year with the remainder picked up in
the 2nd.

50

2 Beginning July 2, 2004, a permanent cushion system goes into
effect. Any unit that depends on state subsidies to fund 30% or
4 more to its base year operating costs will be protected against
losing any more than 5% in combined operating and program cost
6 from one fiscal year to the next. Thus, the cushion will dampen
net swings in the 2 major variables that impact the formula:
valuation and pupil count.

8

10 The cushions are funded by a mechanism that clips off excess
subsidies that would otherwise be given to those units whose
gains exceed a maximum percentage, which is annually calculated
12 by the Commissioner of Education at the rate necessary to pay the
cushion subsidies.