

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1422

S.P. 472

In Senate, March 25, 2003

### **An Act To Promote Student and Taxpayer Equity in the School Funding Formula**

(EMERGENCY)

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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 BRENNAN of Cumberland.  
Cosponsored by Representative CUMMINGS of Portland and  
Representatives: KANE of Saco, MURPHY of Kennebunk.

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

4  
6           **Whereas,** this legislation needs to take effect before the  
expiration of the 90-day period in order for its provisions to be  
in effect for the beginning of the next fiscal year; and

8  
10           **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  
12 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

16           **Sec. 1. 20-A MRSA §15603, sub-§26-A, ¶F,** as amended by PL  
18 1999, c. 401, Pt. GG, §2, is further amended to read:

20           F. If for any fiscal year the total amount appropriated for  
the State's share of the total allocation is less than the  
22 amount specified in the certified funding level for that  
year, then all subsidizable costs except as noted in  
24 subparagraphs (1) and (2) are reduced by a percentage of the  
original cost amounts. The reduction percentage is the  
26 smallest percentage that results in a state share of the  
total allocation that does not exceed the amount  
28 appropriated for this purpose, except that the reduction  
percentage that would ordinarily be used for operating and  
30 program costs must be reduced for the purpose of computing  
state subsidy for transportation operating costs as defined  
32 in subsection 29. ~~Until fiscal year 2000-01, the reduction  
percentage ordinarily used for transportation operating  
34 costs must be reduced by the amount necessary to provide  
additional state subsidy equal to \$4,500,000 for this  
36 category of costs. The statewide adjustment factor under  
section 15654, subsection 1, paragraph B must be adjusted by  
38 an amount sufficient to provide this additional funding for  
program costs. Beginning in fiscal year 1999-00, the  
40 reduction percentage must be phased out over 4 years. In  
fiscal year 1999-00, the reduction percentage for program  
42 costs other than transportation operating costs must be  
15.88%. It is the intent of the Legislature that the  
44 reduction percentage for all program costs and the insured  
value factor be lowered to 9.97% in fiscal year 2000-01, to  
46 4.98% in fiscal year 2001-02 and to 0% in fiscal year  
2002-03. Beginning in fiscal year 2000-01, if the  
48 appropriation and any increase in the mill rate determined  
by the Legislature to be needed under section 15653 are not  
50 sufficient to achieve both the targeted reduction percentage~~

2 ~~and the targeted per pupil guarantee, as defined in section~~  
3 ~~15653, then the per pupil guarantee must advance toward the~~  
4 ~~targeted per pupil guarantee in the same proportion as the~~  
5 ~~reduction percentage, as defined in this section, is lowered~~  
6 ~~toward the targeted reduction percentage. Beginning in~~  
7 ~~fiscal year 2003-04, the reduction percentage for program~~  
8 ~~costs must be 0%. The following subsidizable costs may not~~  
9 ~~be reduced:~~

10 (1) Principal and interest on approved school  
11 construction costs; and

12 (2) Approved lease costs.

13 **Sec. 2. 20-A MRSA §15652, sub-§6**, as enacted by PL 1995, c.  
14 368, Pt. Z, §1 and affected by §2, is amended to read:

15 **6. Property fiscal capacity.** "Property fiscal capacity"  
16 means the lesser of the average of the state valuation amounts  
17 for the 2 4 most recent years prior to the year of funding or the  
18 state valuation amount for the most recent year.

19 **Sec. 3. 20-A MRSA §15653, sub-§1**, as amended by PL 2001, c.  
20 358, Pt. U, §2, is repealed and the following enacted in its  
21 place:

22 **1. Per pupil guarantee.** The Legislature shall annually  
23 establish a per pupil guarantee. For fiscal year 2003-04, the  
24 per pupil guarantee is \$4,816.

25 **Sec. 4. 20-A MRSA §15653, sub-§4**, as amended by PL 2001, c.  
26 559, Pt. D, §3, is further amended to read:

27 **4. Statewide local share.** For fiscal year 2001-02, the  
28 statewide local share amount of the operating costs allocation is  
29 based on the sum of the amounts determined by multiplying for  
30 each unit 7.29 mills times the unit's property fiscal capacity.  
31 In subsequent years ~~the mill rate is 7.57 mills, except that~~ the  
32 Legislature shall determine if an increase is the mill rate  
33 needed to achieve the targeted per pupil guarantee under this  
34 section.

35 **Sec. 5. 20-A MRSA §15656, sub-§1**, as enacted by PL 1999, c.  
36 401, Pt. GG, §8, is amended to read:

37 **1. Pupil count used for operating costs.** The resident  
38 pupil count used for operating costs in this chapter is the  
39 greater of the average of the 2 census counts for the most recent  
40 calendar year and the average of the ~~4~~ 8 census counts for the  
41 2 4 most recent calendar years.

2 A. The 2 census counts in each calendar year must be for  
4 April 1st and October 1st.

6 B. As an exception, only the 2 census counts in the most  
8 recent calendar year may be used for:

10 (1) Kindergarten to grade 8 students for units that  
12 send all their kindergarten to grade 8 students as  
14 tuition students to schools elsewhere in the State;

(2) Grade 9 to grade 12 students for units that send  
all their grade 9 to grade 12 students as tuition  
students to schools elsewhere in the State; and

16 (3) Kindergarten to grade 12 students for units that  
18 send all their kindergarten to grade 12 students as  
tuition students to schools elsewhere in the State.

20 **Sec. 6. 20-A MRSA §15657, sub-§1**, as enacted by PL 1995, c.  
22 368, Pt. Z, §1 and affected by §2, is amended to read:

24 1. **Fiscal capacity.** The local per pupil property fiscal  
26 capacity divided by the statewide per pupil property fiscal  
capacity as computed by the commissioner is multiplied by a  
property weight of 0.85 as described in this subsection.

28 A. Beginning in fiscal year 2003-04, the determination of  
30 fiscal capacity must be computed in accordance with the  
following provisions:

32 (1) For fiscal year 2003-04, the property weight used  
34 is 0.80; and

36 (2) For fiscal year 2004-05, the property weight used  
is 0.75.

38 B. As an exception to the property fiscal capacity computed  
40 under subsection 1, the commissioner shall adjust the  
42 weighted relative property fiscal capacity used in  
44 accordance with this subsection for a school administrative  
46 unit that is located in a municipality that has tax-exempt  
48 property as described in Title 36, sections 651 and 652 that  
exceeds 20% or more of the property within the municipality  
as determined by the Department of Administrative and  
Financial Services, Bureau of Revenue Services under Title  
36, section 305, subsection 1. The commissioner shall adopt  
rules for the exception to be provided under this paragraph,  
including procedures for determining the adjustment needed  
for school administrative units that qualify for an

2           adjustment under this paragraph. Rules adopted pursuant to  
3           this paragraph are routine technical rules as defined in  
4           Title 5, chapter 375, subchapter 2-A.

6           **Sec. 7. 20-A MRSA §15657, sub-§2**, as amended by PL 1999, c.  
7           401, Pt. GG, §9, is repealed and the following enacted in its  
8           place:

10           2. Local median household income. The local median  
11           household income is divided by the statewide average median  
12           household income. The final result is multiplied by an income  
13           weight as described in this subsection. For fiscal year 2003-04,  
14           the income weight used is 0.20 and for fiscal year 2004-05, the  
15           income weight used is 0.25. As an exception, the commissioner  
16           shall adjust the income weight used in accordance with this  
17           subsection for a school administrative unit that is located  
18           within a municipality whose weighted relative fiscal property  
19           capacity as determined under this section as a percent of the  
20           municipality's median household income is greater than the  
21           statewide weighted relative fiscal property capacity as  
22           determined under this section as a percent of the statewide  
23           median household income average.

24           **Sec. 8. 20-A MRSA §15658, sub-§1**, as enacted by PL 1995, c.  
25           368, Pt. Z, §1 and affected by §2, is amended to read:

26           1. **Operating costs mill rate.** The operating costs mill  
27           rate, as described in chapter 606, is in effect for the limited  
28           purposes of determining the state and local shares of each school  
29           administrative unit's program costs allocation and its debt  
30           service allocation, and for determining the amount required to  
31           provide the statewide state share of the allocation for the per  
32           pupil guarantee. For each individual school administrative unit,  
33           the amounts described in section 15655, subsection 1 are used  
34           rather than the amounts in section 15608, subsection 1; section  
35           15609, subsection 1, paragraph A; and section 15610, subsection  
36           1, paragraph A. This subsection is repealed July 1, 2003.

38           **Sec. 9. 20-A MRSA §15658, sub-§2** is enacted to read:

40           2. **Operating costs mill rate.** Beginning with fiscal year  
41           2003-04, the operating costs mill rate, as described in chapter  
42           606, is not in effect for the limited purposes of determining the  
43           state and local shares of each school administrative unit's  
44           program costs allocation and its debt service allocation, and for  
45           determining the amount required to provide the statewide state  
46           share of the allocation for the per pupil guarantee. For each  
47           individual school administrative unit, the amounts described in  
48           section 15655, subsection 1 are used rather than the amounts in  
49           section 15608, subsection 1; section 15609, subsection 1,  
50

2 paragraph A; and section 15610, subsection 1, paragraph A, with  
3 the exception of the program millage limit and the debt service  
4 millage limit pursuant to section 15607, subsection 2. This  
5 subsection takes effect July 1, 2003.

6 **Sec. 10. Per pupil guarantee and statewide factor.** The per pupil  
7 guarantee for the 2003-04 fiscal year is \$4,816 in accordance  
8 with the Maine Revised Statutes, Title 20-A, section 15653,  
9 subsection 1. The Department of Education shall calculate the  
10 statewide factor required for fiscal year 2003-04 after the  
11 Legislature determines the amount of general funds to be  
12 appropriated for the general purpose aid for local schools  
13 program pursuant to Title 20-A, chapters 606 and 606-A.

14 **Sec. 11. Foundation subsidy indexes.** This section establishes  
15 the mill rates pursuant to the Maine Revised Statutes, Title  
16 20-A, chapter 606 for the 2003-04 fiscal year as follows:  
17 operating cost millage is determined by the Department of  
18 Education; and the program millage limit is 1.45 mills.

19 **Sec. 12. Foundation reduction percentage.** The program cost  
20 reduction percentage is 0%.

21 **Sec. 13. Debt service reduction percentage.** The Department of  
22 Education shall determine the reduction percentage for the  
23 insured value factor for fiscal year 2003-04 pursuant to the  
24 Maine Revised Statutes, Title 20-A, chapter 606.

25 **Sec. 14. Debt service appropriation.** The Department of Education  
26 shall calculate the debt service appropriation level to be  
27 provided for the general purpose aid for local schools program  
28 for the fiscal year beginning July 1, 2003 and ending June 30,  
29 2004 pursuant to the Maine Revised Statutes, Title 20-A, chapter  
30 606.

31 **Sec. 15. Adjustments and miscellaneous costs allocation; geographic**  
32 **isolation; out-of-district placements.** The adjustments and  
33 miscellaneous costs allocation of state funds for fiscal year  
34 2003-04 for the cost of geographic isolation adjustments and the  
35 out-of-district placements adjustments under the General Purpose  
36 Aid for Local Schools program listed in this section is as  
37 follows:

	2003-04
	TOTAL
<b>Adjustments and Miscellaneous Costs</b>	
Cost of Geographic Isolation Adjustments	\$1,792,317
Out-of-district Placements	3,788,679

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**Total Adjustments and Miscellaneous Costs**

\$5,580,996

**Sec. 16. Adjustments and miscellaneous costs allocation.** Except as provided in section 14 and after the Legislature determines the amount of general funds to be appropriated for the general purpose aid for local schools program pursuant to the Maine Revised Statutes, Title 20-A, chapters 606 and 606-A, the Department of Education shall determine the adjustments and miscellaneous costs allocation of state funds necessary for fiscal year 2003-04 under the general purpose aid for local schools program for the following categories of adjustments: cost of quality incentive adjustments, audit adjustments, cost of reimbursement for private school services, special education tuition and board for state wards and other pupils placed directly by the State, state agency clients, English as a 2nd language, long-term drug treatment centers, contract for cost-of-education and income data, learning results implementation and the fiscal year 2003-04 cushion.

**Sec. 17. Updating and revising plan components of the essential programs and services model.** The Department of Education and the State Board of Education implementation for the essential programs and services model must include, but may not be limited to, the following:

**1. Weighted pupil methodology.** Any revisions necessary to the weighted pupil methodology established for special student populations in accordance with the Maine Revised Statutes, Title 20-A, chapter 606-B;

**2. Regional cost-of-education adjustment.** A regional adjustment for legitimate regional differences in the cost of components, including what basis there may be for recognizing legitimate regional differences in the costs of purchasing educational goods and services that are elements of the essential programs and services model; and

**3. School administrative unit cost determination.** Any revisions to the current method of using a statewide average methodology in determining school administrative unit costs in accordance with the Maine Revised Statutes, Title 20-A, chapters 606 and 606-A.

**Sec. 18. Consolidation incentives.** The State Board of Education and the Department of Education shall prepare a state incentive plan for school consolidation, including organizational structures and functions that can provide adequate instructional opportunities for all students while also ensuring a high level



2 of operational efficiencies. The Department of Education shall  
3 designate a senior staff person to be responsible for  
4 investigating other state models of consolidation and to work  
5 with local school administrative units to promote administrative  
6 unit consolidation. The State Board of Education and the  
7 Department of Education shall present the plan for adopting rules  
8 on school administrative unit consolidation to the Joint Standing  
9 Committee on Education and Cultural Affairs no later than  
10 November 1, 2003 and may provide for an additional allocation of  
11 state subsidy to school administrative units that consolidate  
12 schools.

13  
14 **Sec. 19. Early retirement program.** Concurrent with their  
15 review of the feasibility of establishing recruitment and  
16 retention incentives for educational personnel pursuant to Public  
17 Law 2001, chapter 660, section 6, the State Board of Education  
18 and the Department of Education shall prepare an analysis of the  
19 alternatives available for establishing an early retirement  
20 program for educational personnel.

21  
22 **Emergency clause.** In view of the emergency cited in the  
23 preamble, this Act takes effect when approved, except as  
24 otherwise indicated.

25  
26 **SUMMARY**

27  
28 This bill provides amendments to the school funding formula  
29 to ensure student equity and taxpayer equity in the distribution  
30 of state resources for kindergarten to grade 12 public education  
31 in the State. In order to achieve these goals, the bill provides  
32 the following changes to the school funding formula.

33  
34 1. Beginning in fiscal year 2003-04, the pupil counts and  
35 the property valuation data used for determination of the state  
36 subsidy to be distributed to each school administrative unit will  
37 be based on the averages of the annual numbers for pupil count  
38 and for property valuation for the most recent 4-year period.

39  
40 2. As an exception to the current method of computing  
41 property fiscal capacity, the Commissioner of Education shall  
42 provide municipalities that have tax-exempt property that exceeds  
43 20% of property in the municipality due to the location of  
44 nonprofit and governmental organizations within the municipality,  
45 with an adjustment to the property weight used to determine their  
46 school funding subsidy.

47  
48 3. In fiscal year 2003-04, the income factor used to  
49 determine local fiscal capacity will be calculated at 20% and in  
50 fiscal year 2004-05, the income factor used will be calculated at  
51 25%.

2           4. As an exception to using income to determine local  
fiscal capacity, the Commissioner of Education shall adjust the  
4 income factor used for a school administrative unit that is  
located within a municipality whose local fiscal property  
6 capacity as a percent of the municipality's median household  
income exceeds the statewide fiscal property capacity as a  
8 percent of the statewide median household income.

10           5. For fiscal year 2003-04, the program millage limit will  
be 1.45 mills, approximately the level established for fiscal  
12 year 2002-03.

14           6. For fiscal year 2003-04, the operating mill rate will be  
determined by the Department of Education.

16           7. For fiscal year 2003-04, the program cost reduction  
18 percentage will be 0%.

20           8. In fiscal year 2003-04, the adjustment for  
out-of-district placement will be increased to \$3,788,679.

22           9. In fiscal year 2003-04, the adjustment for the costs of  
24 geographic isolation will be fully funded at \$1,792,317.

26           10. The implementation of the essential program and  
services model must include a weighted pupil methodology, a  
28 cost-of-education adjustment and a method of calculating district  
costs other than using a statewide average cost method.

30           11. The State Board of Education and the Department of  
32 Education shall prepare and present a state incentive plan for  
school consolidation. The Department of Education shall  
34 designate a senior staff person to be responsible for  
investigating other state models of consolidation and shall adopt  
36 rules on school administrative unit consolidation no later than  
November 1, 2003, which may provide for an additional allocation  
38 of state subsidy to school administrative units that consolidate  
schools.

40           12. The State Board of Education and the Commissioner of  
42 Education shall study the possibility of establishing an early  
retirement program for educational personnel.