

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 610

S.P. 225

In Senate, February 17, 2009

**An Act To Add 10 Days to the School Year and To Require Daily
Physical Exercise for All School Children**

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.

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

2 **Sec. 1. 20-A MRSA §4710** is enacted to read:

3 **§4710. Physical education**

4 **1. Daily physical education.** Beginning in the 2009-2010 school year, each school
5 shall provide a period of physical education daily. On a day when there is inclement
6 weather or unplanned circumstances have shortened the school day, the school may elect
7 not to provide for physical education. A student who has a medical condition that
8 precludes participation in the physical education required under this subsection is exempt
9 from the requirements of this subsection.

10 **2. Physical evaluation program.** Beginning in the 2009-2010 school year, each
11 school shall provide a program of physical evaluation of each student that includes
12 identification of that student's body-mass index, pulse rate and blood pressure and
13 evaluates the student's endurance and muscle capacity to perform a series of physical
14 tasks and exercises. A student who has a medical condition that precludes participation in
15 the physical evaluation required under this subsection is exempt from the requirements of
16 this subsection.

17 **Sec. 2. 20-A MRSA §4801, sub-§1,** as amended by PL 2005, c. 662, Pt. A, §10,
18 is further amended to read:

19 **1. Number.** A school administrative unit shall make provision for the maintenance
20 of all of its schools for at least ~~180~~ 190 days a year. At least ~~175~~ 185 days shall must be
21 used for instruction. In meeting the requirement of a ~~180-day~~ 190-day school year, no
22 more than 5 days may be used for in-service education of teachers, administrative
23 meetings, parent-teacher conferences, records' days and similar activities.

24 A. The commissioner may reduce or waive the minimum number of days required
25 on application from a school board. The application must be supported in writing
26 with a statement of the reasons for the request.

27 B. Notwithstanding any other section of the statutes, school committees, with the
28 approval of the commissioner, may adopt or amend rules necessary to implement an
29 extended school year at the local level. The commissioner may make appropriate
30 adjustments, not to exceed the allowable subsidy, to insure fair and equitable
31 treatment in the distribution of state aid.

32 C. Notwithstanding this subsection, the commissioner shall ~~promulgate~~ adopt a rule
33 to provide that local school units may allow secondary school students to graduate up
34 to 5 school days prior to the regular end of the school year.

35 D. A school administrative unit, operating under a plan approved by the
36 commissioner, may provide for the use of up to 5 of the ~~175~~ 185 instructional days
37 required by this section to be used for screening incoming first year students for the
38 purpose of identifying children with disabilities and students at risk of school failure
39 as required by state or federal law.

1 E. Notwithstanding this subsection and any other provision of law, for school years
2 1991-92 and 1992-93, a school administrative unit may reduce the number of days
3 for the maintenance of all its schools by 5 days a year. A school administrative unit
4 that decides to reduce the number of school days for school year 1991-92 or 1992-93,
5 or both, shall notify the commissioner in writing of its plan.

6 **Sec. 3. 20-A MRSA §5001-A, sub-§3, ¶A**, as amended by PL 2007, c. 111, §1,
7 is further amended to read:

8 A. Equivalent instruction alternatives are as follows.

9 (1) A person is excused from attending a public day school if the person obtains
10 equivalent instruction in:

11 (a) A private school approved for attendance purposes pursuant to section
12 2901;

13 (b) A private school recognized by the department as providing equivalent
14 instruction;

15 (c-1) A home instruction program that complies with the requirements of
16 subparagraph (4); or

17 (d) Any other manner arranged for by the school board and approved by the
18 commissioner.

19 (2) A student is credited with attendance at a private school only if a certificate
20 showing the name, residence and attendance of the person at the school, signed
21 by the person or persons in charge of the school, has been filed with the school
22 officials of the administrative unit in which the student resides.

23 (4) The following provisions govern a home instruction program.

24 (a) The student's parent or guardian shall provide a written notice of intent to
25 provide home instruction simultaneously to the school officials of the
26 administrative unit in which the student resides and to the commissioner
27 within 10 calendar days of the beginning of home instruction. The notice
28 must contain the following information:

29 (i) The name, signature and address of the student's parent or guardian;

30 (ii) The name and age of the student;

31 (iii) The date the home instruction program will begin;

32 (iv) A statement of assurance that indicates the home instruction
33 program will provide at least ~~175~~ 185 days annually of instruction and
34 will provide instruction in the following subject areas: English and
35 language arts, math, science, social studies, physical education, health
36 education, library skills, fine arts and, in at least one grade from grade 6
37 to 12, Maine studies. At one grade level from grade 7 to 12, the student
38 will demonstrate proficiency in the use of computers; and

39 (v) A statement of assurance that indicates that the home instruction
40 program will include an annual assessment of the student's academic

1 progress that includes at least one of the forms of assessment described in
2 division (b).

3 (b) On or before September 1st of each subsequent year of home instruction,
4 the student's parent or guardian shall file a letter with the school officials of
5 the administrative unit in which the student resides and the commissioner
6 stating the intention to continue providing home instruction and enclose a
7 copy of one of the following forms of annual assessment of the student's
8 academic progress:

9 (i) A standardized achievement test administered through the
10 administrative unit in which the student resides or through other
11 arrangements approved by the commissioner. If the test is administered
12 through the administrative unit in which the student resides, that
13 administration must be agreed to by the school officials of the
14 administrative unit prior to submission of the written notice of intent to
15 provide home instruction;

16 (ii) A test developed by the school officials of the administrative unit in
17 which the student resides appropriate to the student's home instruction
18 program, which must be agreed to by the school officials of the
19 administrative unit prior to submission of the written notice of intent to
20 provide home instruction;

21 (iii) A review and acceptance of the student's progress by an identified
22 individual who holds a current Maine teacher's certificate;

23 (iv) A review and acceptance of the student's progress based on, but not
24 limited to, a presentation of an educational portfolio of the student to a
25 local area homeschooling support group whose membership for this
26 purpose includes a currently certified Maine teacher or administrator; or

27 (v) A review and acceptance of the student's progress by a local advisory
28 board selected by the superintendent of the administrative unit in which
29 the student resides that includes one administrative unit employee and 2
30 home instruction tutors. For the purpose of this subdivision, a "home
31 instruction tutor" means the parent, guardian or other person who acts or
32 will act as a primary teacher of the student in the home instruction
33 program. This provision must be agreed to by the school officials of the
34 administrative unit in which the student resides prior to submission of the
35 written notice of intent to provide home instruction.

36 (c) Dissemination of any information filed under this subparagraph is
37 governed by the provisions of section 6001; the federal Family Educational
38 Rights and Privacy Act of 1974, 20 United States Code, Section 1232g
39 (2002); and the federal Education for All Handicapped Children Act of 1975,
40 20 United States Code, Sections 1401 to 1487 (2002), except that "directory
41 information," as defined by the federal Family Educational Rights and
42 Privacy Act of 1974, is confidential and is not subject to public disclosure
43 unless the parent or guardian specifically permits disclosure in writing or a
44 judge orders otherwise. Copies of the information filed under this

1 subparagraph must be maintained by the student's parent or guardian until the
2 home instruction program concludes. The records must be made available to
3 the commissioner upon request.

4 (d) If the home instruction program is discontinued, students of compulsory
5 school age must be enrolled in a public school or an equivalent instruction
6 alternative as provided for in this paragraph. The receiving school shall
7 determine the placement of the student. At the secondary level, the principal
8 of the receiving school shall determine the value of the prior educational
9 experience toward meeting the standards of the system of learning results as
10 established in section 6209.

11 **Sec. 4. 20-A MRSA §13507-A, sub-§2**, as amended by PL 2007, c. 466, Pt. A,
12 §39, is further amended to read:

13 **2. Minimums.** Notwithstanding any other provision of law, the State and the
14 bargaining agent for state teachers in state-operated schools and related classifications
15 shall at a minimum, in accordance with bargaining procedures set forth in Title 26,
16 chapter 9-B, negotiate as to the impact of implementation of sections 13405 and 13406.
17 The negotiations must be limited to salaries. Minimum salaries established by those
18 negotiations must be based upon a ~~180-day~~ 190-day school year and must be
19 proportionately higher for positions whose incumbents work for longer terms.
20 Negotiations must establish pay schedules that enable the State to be competitive with
21 local school administrative units in recruitment and retention with regard to teachers and
22 related classifications. The term "teachers and related classifications" includes any
23 classification in State Government that is a teaching classification, requires professional
24 work in or around the classroom setting or is within the career ladder of the
25 classifications by virtue of its relationship to educational supervision or programming.

26 **Sec. 5. 20-A MRSA §15689, sub-§5, ¶B**, as enacted by PL 2005, c. 2, Pt. D, §60
27 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

28 B. The rate of reimbursement per student may not exceed the state average tuition
29 rates in effect during the year of placement as computed under sections 5804 and
30 5805. The tuition rates must be computed based on the state average secondary
31 tuition rate and may be adjusted if the program is approved to operate beyond the
32 ~~180-day~~ 190-day school year.

33 **SUMMARY**

34 This bill:

- 35 1. Requires that schools provide physical education to students daily;
36 2. Requires that schools provide a program of physical evaluation of each student;
37 and
38 3. Increases by 10 days the required annual number of school days.