

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 485

H.P. 335

House of Representatives, February 14, 2013

### An Act To Amend and Clarify Certain Education Laws

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Submitted by the Department of Education pursuant to Joint Rule 204.  
Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative JOHNSON of Greenville.  
Cosponsored by Senator LANGLEY of Hancock and  
Representative: MAKER of Calais.

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

2 **PART A**

3 **Sec. A-1. 20-A MRSA §1466, sub-§5, ¶D**, as enacted by PL 2009, c. 580, §9, is  
4 amended to read:

5 D. In a warrant under paragraph C, the municipal officers shall direct that the polls  
6 are to be open ~~at~~ by 10 a.m. and remain open until 8 p.m.

7 **Sec. A-2. 20-A MRSA §1466, sub-§13**, as amended by PL 2011, c. 678, Pt. J,  
8 §4, is further amended to read:

9 **13. Determination of results; execution of agreement.** ~~If~~ Except for a school  
10 administrative district that was reformulated as a regional school unit pursuant to Public  
11 Law 2007, chapter 240, Part XXXX, section 36, subsection 12, if the commissioner finds  
12 that a majority of the voters voting on the article has voted in the affirmative and the total  
13 number of votes cast for and against the article equal or exceed 50% of the total number  
14 of votes cast in the municipality for Governor at the last gubernatorial election, the  
15 commissioner shall notify the municipal officers and the regional school unit board to  
16 take steps for the withdrawal in accordance with the terms of the agreement for  
17 withdrawal. For a municipality that is part of a school administrative district that was  
18 reformulated as a regional school unit pursuant to Public Law 2007, chapter 240, Part  
19 XXXX, section 36, subsection 12, if the commissioner finds that at least 2/3 of the votes  
20 validly cast in the municipality are in the affirmative, the commissioner shall notify the  
21 municipal officers and the regional school unit board to take steps for the withdrawal in  
22 accordance with the terms of the agreement for withdrawal.

23 This subsection is repealed January 1, 2015.

24 **Sec. A-3. 20-A MRSA §6051, sub-§1, ¶I**, as amended by PL 2011, c. 678, Pt.  
25 A, §3, is further amended to read:

26 I. A determination of whether the school administrative unit has exceeded its  
27 authority to expend funds, as provided by the total budget summary article; ~~and~~

28 **Sec. A-4. 20-A MRSA §6051, sub-§1, ¶J**, as enacted by PL 2011, c. 678, Pt. A,  
29 §4, is amended to read:

30 J. A determination of whether the school administrative unit has complied with the  
31 applicable provisions of the unexpended balances requirements established under  
32 section 15004-; and

33 **Sec. A-5. 20-A MRSA §6051, sub-§1, ¶K** is enacted to read:

34 K. A schedule of expenditures of federal awards.

35 **PART B**

36 **Sec. B-1. 20-A MRSA §15672, sub-§2-A, ¶A**, as enacted by PL 2005, c. 2, Pt.  
37 D, §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

1 A. Principal and interest costs for approved major capital projects in the allocation  
2 year, ~~including the initial local share of school construction projects that received~~  
3 ~~voter approval for all or part of their funding in referendum in fiscal year 1984-85,~~  
4 ~~but~~ excluding payments made with funds from state and local government accounts  
5 established under the federal Internal Revenue Code and regulations for disposition  
6 of excess, unneeded proceeds of bonds issued for a school project and excluding any  
7 principal and interest costs attributable to a school closed for lack of need pursuant to  
8 chapter 202;

9 **Sec. B-2. 20-A MRSA §15901, sub-§1, ¶D,** as enacted by PL 1981, c. 693, §§5  
10 and 8, is amended to read:

11 D. The state board's intent to issue ~~final~~ design and funding approval subject to a  
12 favorable local vote and approval of final cost estimates.

13 **Sec. B-3. 20-A MRSA §15901, sub-§1-A** is enacted to read:

14 **1-A. Design and funding approval.** "Design and funding approval" means  
15 approval by the state board indicating that a school construction project's drawings and  
16 specifications have been developed to 100% completion, the project has gained the  
17 recommendations of the department and the school administrative unit is authorized to  
18 seek bids for the work.

19 **Sec. B-4. 20-A MRSA §15904, first ¶,** as amended by PL 1985, c. 248, §3, is  
20 further amended to read:

21 Prior to ~~final~~ design and funding approval by the state board, a school construction  
22 project, except a small scale school construction project as defined in section 15901,  
23 subsection 4-A, must receive a favorable vote conducted in accordance with the  
24 following.

25 **Sec. B-5. 20-A MRSA §15905, sub-§3,** as amended by PL 2011, c. 678, Pt. D,  
26 §1, is further amended to read:

27 **3. Certificate of approval.** A certificate of approval must be issued by the  
28 commissioner for each project ~~approved~~ for which design and funding approval has been  
29 given by the state board. The certificate must bear the amount approved for subsidy and  
30 other stipulations or conditions. The certificate must be signed by the commissioner and  
31 is conclusive evidence of the facts stated on it.

32 **Sec. B-6. 20-A MRSA §15909, sub-§§5 and 6,** as enacted by PL 2011, c. 678,  
33 Pt. A, §8, are amended to read:

34 **5. Records.** ~~Financial~~ All records ~~and accounts~~ for a school construction project  
35 must be kept for 7 years after the final ~~audit~~ compliance review.

36 **6. Compliance review.** ~~Financial~~ All records ~~and accounts~~ for state-funded school  
37 construction projects must be ~~audited~~ reviewed for compliance by department staff or  
38 certified public accountants ~~contracted by~~ under contract with the department.

1 **PART C**

2 **Sec. C-1. 20-A MRSA §8601-A, sub-§1**, as repealed and replaced by PL 2011,  
3 c. 517, §1, is amended to read:

4 **1. Adult education.** "Adult education" means an education program primarily  
5 operated for individuals beyond the compulsory school age that is administered by school  
6 administrative units through a career pathways and service system and that, except as  
7 provided in section 8602-B, includes intake, assessment, ~~career~~ advising, instruction and  
8 individual learning plans; is guided by data management and analysis, annual monitoring  
9 and annual professional development plans; uses appropriately certified staff; is designed  
10 to meet identified local needs; makes use of partnerships and alignment with workforce  
11 development, postsecondary institutions and support services; and offers at least 3 of the  
12 following:

- 13 A. Basic literacy instruction or instruction in English as a Second Language;
- 14 B. High school completion courses;
- 15 C. College transition courses;
- 16 ~~D. Career pathways services; and~~
- 17 E. Enrichment courses;
- 18 F. Adult workforce training and retraining; and
- 19 G. Adult career and technical education.

20 **Sec. C-2. 20-A MRSA §8601-A, sub-§14, ¶¶B and C**, as amended by PL  
21 2011, c. 517, §5, are further amended to read:

22 B. Supplemental learners, who are adults pursuing courses or activities that are  
23 related, in a clear and applicable manner, to current full-time or part-time  
24 employment or wage-earning activities; and

25 C. Certificate learners, who are adults participating in a sequence of courses that  
26 provide individuals with the academic and technical knowledge and skills that  
27 individuals need to prepare for further education and careers in current or emerging  
28 employment sectors, including the skills and training and work credential programs  
29 conducted under the auspices of the boards of the local workforce investment areas  
30 designated pursuant to the federal Workforce Investment Act of 1998, Public Law  
31 105-220, and the department; ~~and~~.

32 **Sec. C-3. 20-A MRSA §8601-A, sub-§14, ¶D**, as enacted by PL 2011, c. 517,  
33 §5, is repealed.

34 **Sec. C-4. 20-A MRSA §8601-A, sub-§22**, as enacted by PL 2011, c. 517, §6, is  
35 repealed.

36 **Sec. C-5. 20-A MRSA §8602-B** is enacted to read:

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**§8602-B. Regions**

Notwithstanding the other provisions of this chapter, a region may offer adult education courses only if those courses are included within adult career and technical education and adult workforce training and retraining. A region offering adult education courses under this chapter shall perform intake and data management functions in the same manner as a school administrative unit as provided under section 8601-A, subsection 1.

**Sec. C-6. 20-A MRSA §8607-A, sub-§7**, as corrected by RR 2007, c. 1, §10, is amended to read:

**7. Other administrative costs.** Other administrative costs, including program promotion and related publicity, mailing and postage and telephone expenses for courses and programs described in subsections 2 to 5, 8 and 9, are reimbursed at the rate of 50% of these costs. The cost of interpreters for deaf students and deaf adult learners and the cost of translators for students and adult learners with limited English proficiency are reimbursed at the rate of 75% of these costs but only as a payment of last resort after the otherwise valid obligations of insurers or other 3rd parties to provide or pay for these services have been exhausted.

**PART D**

**Sec. D-1. 20-A MRSA §13025** is enacted to read:

**§13025. Investigations**

When conducting an investigation relating to the certification of teachers and other professional personnel under this chapter and rules of the state board, the commissioner may issue subpoenas for education records relevant to that investigation.

**SUMMARY**

This bill amends and clarifies certain education laws.

Part A amends and clarifies requirements for the withdrawal of a municipality from a regional school unit and provides that annual audits must include a schedule of expenditures of federal funds.

Part B:

- 1. Amends and clarifies allowable debt service costs for state-funded school construction projects and repeals obsolete language;
- 2. Clarifies when design and funding approval by the State Board of Education is granted;
- 3. Clarifies that a local school unit will be notified by the Commissioner of Education only after any approved vote has been considered by the State Board of Education; and

1           4. Clarifies statutory language requiring the compliance review of state-funded  
2 school construction projects.

3           Part C:

4           1. Revises the definition of "adult education" to provide that adult education  
5 programs must be provided through a career pathways and service system and to include  
6 adult workforce training and retraining and adult career and technical education in the list  
7 of adult education courses;

8           2. Provides that career and technical education regions may offer only adult career  
9 and technical education and adult workforce training and retraining courses and must  
10 perform intake and data management functions;

11          3. Removes career pathways learners from the list of learners served by adult  
12 workforce training and retraining;

13          4. Repeals the definition of "career pathways services" as a separate service as it has  
14 now been integrated as part of the overall definition of "adult education"; and

15          5. Includes college transition courses and adult workforce training and retraining  
16 among other administrative costs for the purpose of reimbursement.

17          Part D authorizes the Commissioner of Education to issue subpoenas for education  
18 records relevant to an investigation regarding the certification of educational personnel.