

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE  
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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**PUBLIC LAWS**  
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8. **Reports.** The commission may require electric utilities to provide such reports and information as it deems necessary to administer this section.

9. **Other electric utilities.** The commission shall promulgate reasonable rules and regulations governing the fuel adjustment clause of electric utilities with total assets less than \$40,000,000. These rules and regulations shall be consistent with the purposes of this subchapter.

**Sec. 2. Transition.** From the effective date of this Act until the effective date of its next general rate adjustment under Title 35, section 64 or 296, following the effective date of regulations promulgated pursuant to this section, each electric utility is authorized to continue billing its fuel charge as authorized and directed by public law, 1975, chapter 489, section 1, as amended by public law, 1977, c. 475. The commission may authorize such interim fuel charges as it deems necessary in order to effect the transition from the fuel charge authorized under public law, 1975, c. 489, section 1, to that authorized under Title 35, section 131. Any reasonable amount of unrecovered fuel costs outstanding on the effective date of an electric utility's general rate adjustment implementing this Act may be recovered through the fuel adjustment clause, subject to commission approval.

**Sec. 3. Appropriation.** The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1978-79
PUBLIC UTILITIES COMMISSION	
Personal Services (1)	\$18,500
All Other	3,500
Capital Expenditures	500
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Total	\$22,500

Effective July 6, 1978

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## CHAPTER 690

### AN ACT to Clarify the Education Laws.

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

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors, inconsistencies and ambiguities in Titles 20 and 27; and

Whereas, it is vitally necessary such uncertainties and confusion be resolved to prevent any injustice or hardship on the citizens of Maine; 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,

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

Sec. 1. 20 MRSA § 102, sub-§ 1, ¶ A, sub-¶ (2), as repealed and replaced by PL 1977, c. 215, is amended to read:

(2) Costs relating to the participation of any administrative unit in the "Maine Assessment of Educational Progress" shall not be considered in calculations of the actual costs of education for purposes of reimbursement under the provisions of chapter ~~512-A~~ 515.

Sec. 1-A. 20 MRSA § 153, as last amended by PL 1975, c. 746, § 3, is further amended by adding at the end the following new paragraph:

An administrative unit within a supervisory union may be authorized by the joint committee to serve as the contractual employer of teachers who provide services to more than one town in the supervisory union. Employment shall be subject to sections 161 and 473 and Title 26, chapter 9-A.

Sec. 2. 20 MRSA § 222, 22nd ¶, as last amended by PL 1977, c. 78, § 125, is further amended to read:

When a School Administrative District dissolves, the general purpose aid for the individual municipalities shall be computed in accordance with chapter ~~512-A~~ 515.

Sec. 2-A. 20 MRSA § 223, as amended by PL 1977, c. 78, § 126, is further amended to read:

#### § 223. Regulations

Subject to this chapter and sections 1901, 1902, 3456, 3457 to 3460 and ~~3742 to 3752~~ 4742 to 4758, the State Board of Education may make such reasonable regulations as it may find necessary for carrying out the purposes, provisions and intent of these sections.

Sec. 2-B. 20 MRSA § 226, first ¶, as amended by PL 1965, c. 48, § 1, is repealed and the following enacted in its place:

A district budget meeting may be called to approve the operating school budget, reserve fund for capital outlay purposes, contingency fund or capital outlay

appropriations or for the purpose of pledging the credit of the district to obtain additional moneys for the operation of schools. A special district budget meeting may be called whenever the directors declare that an emergency exists. The school directors shall call the meetings as follows.

Sec. 2-C. 20 MRSA § 226, sub-§ 3, first sentence, as repealed and replaced by PL 1973, c. 783, § 6, is amended to read:

The warrants shall set forth the school budget to include the state and local allocation, ~~maintenance of effort~~ local leeway and additional expenditures within the limitations of the statute.

Sec. 2-D. 20 MRSA § 226, sub-§ 3, 2nd ¶, last sentence, as enacted by PL 1975, c. 738, § 1, is amended to read:

To summarize the action taken on the school budget for the purposes of determining state and local cost sharing, the articles prescribed in chapter ~~512-A~~ 515 shall also be voted upon.

Sec. 3. 20 MRSA § 301, 5th ¶, 2nd sentence, as repealed and replaced by PL 1973, c. 750, § 3, is amended to read:

The Commissioner of Educational and Cultural Services shall provide the committee with the necessary Federal Decennial Census or Federal Estimated Census figures, whichever are more recent, for each municipality in the district and at least one recommended plan that meets the requirements of one of the 4 Methods A, B, C or D.

Sec. 4. 20 MRSA § 301, Method A, sub-§ 2, 1st sentence, as enacted by PL 1973, c. 552, § 4, is amended to read:

A finding of fact shall be made of the population of each of the municipalities within the district and the total for the district from the latest Federal Decennial Census or Federal Estimated Census, whichever is more recent.

Sec. 5. 20 MRSA § 301, Method B, 1st ¶, last sentence, as enacted by PL 1973, c. 750, § 5, is amended to read:

The ratio of the number of votes able to be cast by the directors representing a member municipality at a board meeting in relation to the number 1000 shall be the same ratio to the nearest whole number as the population of the member municipality is in relation to the population of all municipalities in the district, as determined by the last Federal Decennial Census or Federal Estimated Census, whichever is more recent.

Sec. 5-A. 20 MRSA § 305, 2nd ¶, 2nd sentence, as enacted by PL 1973, c. 783, § 10, is amended to read:

Such assessments shall be limited to those appropriations approved by the voters as being necessary to cover expenditures within the limitations set by this Title, and Title 36 ~~such expenditures being over and above the uniform property tax assessed by the State Tax Assessor for school purposes.~~

Sec. 5-B. 20 MRSA § 355, first ¶, 2nd sentence, as amended by PL 1973, c. 783, § 13, is further amended to read:

The trustees shall thereupon issue their warrants, in substantially the same form as the warrant of the Treasurer of State for taxes, to the assessors of each participating town, requiring them to assess upon the taxable estates within said town an amount in proportion to the total sum required each year as that town's state valuation bears to the total state valuation of all the participating towns, or, in accordance with section 361 if that cost sharing plan has been approved by the voters, except that such assessments shall be limited to those appropriations approved by the voters or trustees when appropriate as being necessary to cover expenditures within the limitations set by this Title, and Title 36 ~~such expenditures being over and above the uniform property tax assessed by the State Tax Assessor for the school purposes;~~ and to commit the assessment to the constable or collector of said town who shall have all the authority and powers to collect said taxes as is in him vested by law to collect state, county and municipal taxes.

Sec. 5-C. 20 MRSA § 362, 5th ¶, last sentence, as enacted by PL 1975, c. 738, § 2, is amended to read:

To summarize the action taken on the school budget for the purposes of determining state and local cost sharing, the articles prescribed in chapter ~~512-A~~ 515 shall also be voted upon.

Sec. 5-D. 20 MRSA § 856, sub-§ 4, as amended by PL 1977, c. 78, § 131, is further amended to read:

4. **Intent.** It is the intent of this section that such co-occupancy shall be used for housing on an emergency basis. Leases shall be signed for a period not to exceed 10 years and must be approved by the commissioner before the agreement is signed to qualify for reimbursement under chapter ~~512-A~~ 515.

Sec. 6. 20 MRSA § 859, as last amended by PL 1977, c. 28, §§ 1-3 and c. 272, is repealed and the following enacted in its place:

§ 859. Persons eligible for a free public education

1. School age; kindergarten, first grade, transfer from another state.

A. Only those children who are or will become 5 years of age on or before October 15th of the school year shall be admitted to kindergarten in those public

schools in the State which offer a one-year childhood education program prior to grade one. Only those children who will be 4 years of age on or before October 15th of the school year shall be admitted to kindergarten in those public schools in the State which offer a 2-year childhood education program prior to grade one.

B. Only those children who are or will become 6 years of age on or before October 15th of the school year shall be admitted to grade one in the public schools in the State.

C. Notwithstanding the age requirements of this subsection, a pupil who was enrolled in and who has attended a public kindergarten or grade one in another state may be admitted to kindergarten or to grade one, respectively, in the administrative unit in which his parents or guardian establishes residency. Also, notwithstanding the age requirements of this section, a pupil who was enrolled in a public kindergarten in another state and was promoted to grade one may be admitted to grade one in the administrative unit in which his parents or guardian establish their residency. Any pupil so admitted to kindergarten shall, upon satisfactory completion of kindergarten, be admitted to grade one, notwithstanding the age requirements of this subsection.

2. Eligibility to attend public schools; war veteran. Subject to this section and subject to such reasonable regulations as the school committee or school directors shall from time to time prescribe, every person between the ages of 5 and 20 years shall have the right to attend as a full-time student or, with the consent of the school committee or board of directors, as a part-time student, the public schools in the administrative unit in which his parent or guardian has residence, except that a war veteran who has not completed high school before the age of 18 years may attend school in the administrative unit wherein he resides until graduation or age 25 years.

3. Residence. Residence as used in this section shall mean the administrative unit where the father or legal guardian maintains a home for his family. If the parents of the child are separated, residency shall be considered to be the administrative unit where the person having custody of the child maintains his or her home. Nothing in this section shall negate the provisions of compulsory education prescribed in section 911.

4. Summer school, tuition rate, per capita costs. Notwithstanding this section, summer schools operated by public school administrative units may charge tuition, not exceeding the school's per capita cost for the preceding summer, except that when a summer school is operated for the benefit of 2 or more public school administrative units, and when the summer school is operated by one of the other public school administrative units the following summer, the school administrative unit may charge tuition not exceeding the per capita cost of the school which served its students during the preceding summer. The per capita cost shall be determined in accordance with regulations established by the Commissioner of Educational and Cultural Services. In the first summer of its



operation, a school's tuition rate shall not exceed the average cost per pupil in all approved public summer schools of the State for the preceding summer. The tuition rate in a public summer school shall be the same for all pupils in attendance at that school who are legal residents of Maine.

Sec. 7. 20 MRSA § 912, as last amended by PL 1975, c. 768, § 2, is further amended by adding after the first paragraph the following new paragraphs:

Any administrative unit not maintaining elementary schools may contract with another administrative unit for elementary school privileges.

Any unit not maintaining elementary schools or contracting for elementary school privileges may pay tuition for any student who resides with a parent or legal guardian in that administrative unit and who attends an approved elementary school. The tuition payment shall not exceed the receiving unit's per pupil cost for the previous year as computed by the commissioner unless a higher rate is approved by the school committee or board of school directors of the sending unit. The tuition payment to a private school shall not exceed the average cost per pupil in all public elementary schools of the State for the previous year as computed by the commissioner.

Sec. 7-A. 20 MRSA § 966, sub-§ 2, ¶ B, as enacted by PL 1977, c. 296, is amended to read:

B. The unit which provides the educational program for such pupil or pupils shall count them in all reports required for purposes of computing state subsidies. For purposes of ~~state aid with state participation~~ local leeway as defined in section ~~3748, subsection 4~~ 4751, subsection 3, such pupil or pupils shall be counted as though they resided in the largest municipality within the administrative unit.

Sec. 8. 20 MRSA § 1291, 2nd ¶, 1st sentence, as enacted by PL 1965, c. 371, § 1, is amended to read:

Payments in excess of the legal tuition charge as defined in ~~this~~ section 1292 may be made when authorized by the voters of the sending administrative unit at a regular or special town meeting.

Sec. 9. 20 MRSA § 1292, 2nd sentence, as repealed and replaced by PL 1975, c. 746, § 14, is amended to read:

The expenditures thus obtained ~~minus tuition income received or receivable for the same school year~~ shall be divided by the average number of resident public secondary pupils enrolled on October 1st and April 1st of the year immediately prior to the school year for which the tuition charge is computed.

Sec. 10. 20 MRSA § 1292, 2nd ¶, last sentence, as enacted by PL 1971, c. 233, § 32, is amended to read:

Superintendents of schools and principals of private schools shall notify the ~~Commissioner of Education~~ commissioner whenever a sending unit is delinquent in its tuition payments and the commissioner shall withhold such delinquent tuition from the monthly apportionment as set out in the preceding paragraph.

Sec. 10-A. 20 MRSA § 1346, as amended by PL 1977, c. 78, § 133, is further amended to read:

§ 1346. Audit

Every academy, eligible to receive tuition payments from municipalities which are eligible for state subsidy aid under chapter ~~512-A~~ 515, shall on or before September 1st of each year furnish to the State Auditor satisfactory proof that the books, accounts, financial documents and reports to the commissioner of that institution for the fiscal year preceding have been examined and found to be in a satisfactory and accurate condition with proper vouchers on file, the audit to be made by the State Department of Audit or by individuals or firms recognized as competent auditors by training and experience or by qualified public accountants.

Sec. 10-B. 20 MRSA § 2356-B, as repealed and replaced by PL 1977, c. 564, § 86-B, is amended to read:

§ 2356-B. State aid for vocational centers and regions

State aid for vocational centers and regions shall be in accordance with sections 3457 to 3460 and chapter ~~512-A~~ 515. Costs for new or expanded vocational education programs may be financed by a local tax ~~outside the uniform tax and~~ outside of any additional appropriations now authorized in chapter ~~512-A~~ 515. **Cooperative boards of vocational regions are authorized to accept and expend special grants from state and federal sources.**

Sec. 11. 20 MRSA § 2356-G, sub-§ 4, 4th ¶, 1st sentence, as repealed and replaced by PL 1977, c. 205, § 11, is amended to read:

The cooperative board, in conjunction with the superintendents' advisory committee, shall annually review the ~~vocational education cooperative~~ agreement and may, with the advice of the superintendents' advisory committee, subject to ratification by a majority vote, which shall be cast in a manner consistent with the one-man, one-vote principle, of all of the school committees or boards of directors of the administrative units within the region, amend its agreement on how vocational education shall be administered in its region.

Sec. 11-A. 20 MRSA § 2356-G, sub-§ 6, 2nd & 3rd ¶'s, as repealed and replaced by PL 1977, c. 205, §§ 14 & 15, are repealed and the following enacted in their place:

The vocational budget as approved by the cooperative board shall be submitted to the legislative body of each unit within the region in the form of 2 articles in the

budget meeting warrant or in the form of 2 orders in a municipal council meeting. The articles or orders should be in substantially the following form:

Shall the regional vocational budget as approved by the cooperative board for the year \_\_\_\_\_ be approved in the amount of \$ \_\_\_\_\_ ?

Shall the vocational region approve a budget for adult education in the amount \$ \_\_\_\_\_ for the year \_\_\_\_\_ ?

Each unit's share of the vocational budget as finally approved by the cooperative board shall be placed in the local school budget and that unit's share shall be adjusted to reflect the unit's net share of the vocational budget as finally adopted by the region. Initial costs for starting new vocational education programs may be financed by a local tax outside of any additional appropriations now authorized in section 4751, subsection 3.

Sec. 11-B. 20 MRSA § 2356-G, sub-§ 6, ¶ B, sub-¶ (5), as amended by PL 1977, c. 264, § 1, is repealed and the following enacted in its place:

(5) The cooperative board shall, forthwith upon the adoption of a budget, compute the share to be paid by each municipality within the region and shall notify the school officials to include that share in the administrative unit's annual school budget. A budget shall be adopted on or before August 1st.

Sec. 11-C. 20 MRSA § 2356-H, as last amended by PL 1973, c. 571, § 71, is repealed and the following enacted in its place:

§ 2356-H. Department of Educational and Cultural Services to make biennial estimates of appropriations required; future appropriations authorized

Preceding the convening of the regular session of the Legislature, the State Board of Education shall estimate the amounts necessary to carry out the purposes of sections 2356-A to 2356-F and it is authorized to and shall include in its requests for appropriations from the General Fund for presentation to the Legislature such amounts as it shall estimate to be necessary to carry out the purposes of those sections. This section shall not apply to construction grants made under section 3460.

Sec. 11-D. 20 MRSA § 3130, sub-§ 2, ¶ B, as enacted by PL 1977, c. 358, § 4, is amended to read:

B. The tuition rates charged by general purpose private schools, agencies or institutions that offer special education programs shall not exceed the state elementary or secondary per pupil tuition rates as computed under sections 912 and 1292, except that those private academies that have an exclusive contract with a local school administrative unit or units for the provision of secondary education shall be treated as public school units for the computation of special education tuition rates, as described in subsection 1.

Sec. 11-E. 20 MRSA § 3452, first ¶, as amended by PL 1977, c. 78, § 137, is further amended to read:

For the purposes of this chapter, chapters 207, 209, 211 and ~~512-A~~ 515, and sections 522, 851, 1292, 2356-A to 2356-H and 3457 to 3460, the following terms are defined.

Sec. 11-F. 20 MRSA § 3454, first sentence, as amended by PL 1977, c. 78, § 138, is further amended to read:

Whenever the information required for the purposes of this chapter, chapters 207, 209, 211 and ~~512-A~~ 515, and sections 522, 1292 and 3457 is not available because of the failure of the administrative unit, through its officers, to make the returns required by law, or because of the loss or destruction of the school records of an administrative unit, the commissioner may use as a basis for apportionment numbers on which the apportionment for said administrative unit was made for the preceding year less 10%.

Sec. 11-G. 20 MRSA § 3471, sub-§ 2, ¶ A, as enacted by PL 1977, c. 563, § 7, is repealed and the following enacted in its place:

A. The State Board of Education is authorized to approve projects as long as no project approval will cause debt service costs, as defined in section 4743, subsection 9, paragraph A, to exceed \$30,000,000 in any subsequent fiscal year.

Sec. 12. 20 MRSA § 3471, sub-§ 2, ¶ E, last sentence, as enacted by PL 1977, c. 563, § 7, is repealed and the following enacted in its place:

In an article submitted to the legislative body of an administrative unit seeking a favorable vote on a school construction project, it shall be clearly indicated that, in addition to the 5% or 1 mill local share of the total cost of the project, the entire additional operating costs of the new project during its first 2 years shall be borne by revenues raised by the local administrative unit.

Sec. 12-A. 20 MRSA § 3472, sub-§ 1, 1st ¶, as enacted by PL 1977, c. 563, § 7, is amended to read:

1. **Rate of construction aid.** The unit's initial share of the total cost of each project shall be either 5% of the total cost or the equivalent of one mill multiplied by the unit's initial state valuation, whichever is less. The one mill shall be calculated on the state valuation in effect at the time the project is first approved by the State Board of Education. The unit's initial share shall be applied to the project costs during the period of construction. The unit's initial share may be derived from either local appropriations or gifts or any combination of gifts and local appropriations. The unit's initial share shall not be considered an educational cost for purposes of subsidy reimbursement under chapter ~~512-A~~ 515.

Sec. 12-B. 20 MRSA § 3472, sub-§ 6, as enacted by PL 1977, c. 563, § 7, is amended to read:

6. **Local funds nonreimbursable, chapter 515.** Notwithstanding any other statute to the contrary, the local share of school construction projects shall not be

considered education costs for purposes of reimbursement in any way under chapter ~~512-A~~ 515. Expenditures for the state and local share of school construction projects including gifts shall be considered as outside any limit on expenditures by local units under chapter ~~512-A~~ 515.

Sec. 12-C. 20 MRSA § 3477, sub-§ 2, as enacted by PL 1977, c. 563, § 7, is amended to read:

2. **Financing.** Maintenance of plant and minor remodeling shall be the responsibility of administrative units with state financial participation in such activities determined under operating costs of chapter ~~512-A~~ 515.

Sec. 13. 20 MRSA § 3483, sub-§1, 1st sentence, as enacted by PL 1977, c. 447, §1, is amended to read:

The plans and specifications of a school construction project or a minor capital outlay project with an estimated cost of \$25,000 prepared by a building committee shall include suitable provision for the health, welfare and safety of the persons who will utilize the project.

Sec. 14. 20 MRSA § 3561, first ¶, last sentence, as amended by PL 1969, c. 440, § 16-B, is further amended to read:

The school committee shall authorize the superintendent of schools to pay the board of any pupil or pupils in an amount not to exceed ~~\$25~~ \$40 per week at a suitable place near any established school instead of providing conveyance for said pupil or pupils, when in their judgment boarding is in the best interest of the child or children.

Sec. 14-A. 20 MRSA § 4748-A, sub-§ 1, ¶ D, 2nd ¶, as enacted by PL 1977, c. 625, § 8, is repealed.

Sec. 14-B. 20 MRSA § 4749, sub-§ 3, ¶ C, first sentence, as enacted by PL 1977, c. 625, § 8, is amended to read:

The amount subtracted under paragraph B may not exceed 90% of the unit's entitlement for the ~~base~~ year prior to the year of allocation.

Sec. 14-C. 20 MRSA § 4750, sub-§ 6, 3rd sentence, as enacted by PL 1977, c. 625, § 8, is amended to read:

The municipal officers shall submit documentation demonstrating the amount of money appropriated for nonpublic school student services for the ~~base year of reimbursement~~.

Sec. 15. 27 MRSA § 119, as enacted by PL 1977, c. 125, § 7 and c. 555, § 1 and as repealed and replaced by PL 1977, c. 564, § 100, is repealed and the following enacted in its place:

§ 119. Distribution of appropriations

The Commissioner of Educational and Cultural Services, with the advice of the Maine Library Commission, is authorized to apportion funds appropriated by the Legislature for the support of regional library systems.

Sec. 16. P&SL 1973, c. 11, § 1, Sect. 3 is amended. Section 3 of said charter, as amended by chapter 264 of the Acts of the Commonwealth of Massachusetts of 1973, and chapter 11 of the private and special laws of Maine of 1973 is hereby further amended to read as follows:

Sect. 3. And be it further enacted by the authority aforesaid, that for the more orderly conducting the business of the said corporation, the president and trustees shall have full power and authority, from time to time, to elect a vice president and secretary of the said corporation, and to declare the tenures and duties of their respective offices; and to elect trustees of said corporation, for such terms and upon such conditions as they may from time to time determine, and also to remove any trustee from the same corporation, when, in their judgment, he shall be incapable or shall neglect or refuse to perform the duties of his office. Provided nevertheless, that the number of the said trustees, including the president ~~and treasurer~~ of said college, for the time being, shall never be greater than 13, nor less than 7.

Sec. 17. Effective date. Section 16 shall take effect when approved for the purpose of its submission to the General Court of Massachusetts for its concurrence. It shall take effect for all purposes when a certificate is filed with the Secretary of State certifying that the General Court of Massachusetts has granted its concurrence.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect immediately, except that sections 7, 9, 11-D and 14 shall take effect on July 1, 1978; and except that section 16 shall take effect in accordance with section 17.

Effective March 30, 1978 Unless otherwise indicated

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## CHAPTER 691

### AN ACT to Establish the Health Facilities Information Disclosure Act.

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

Sec. 1. 22 MRSA c. 105 is enacted to read: