

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

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PUBLIC LAWS
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Ten percent of nonexcluded assets, as defined by the United States Supplemental Security Income Program, belonging to the applicant or those legally responsible for the applicant shall be assumed to be applicable to the liabilities for care.

Sec. 3. 22 MRSA § 3185, 3rd ¶, 5th sentence, as enacted by PL 1977, c. 714, § 5, is amended to read:

If, after the application of all of the above resources, the residual liability, in any one year, for which assistance is being sought is less than ~~\$1,000~~ \$7,000, no payment shall be made from this fund and only that amount in excess of \$1,000 \$7,000 shall be paid.

Sec. 4. 22 MRSA § 3185, as enacted by PL 1977, c. 714, § 5, is amended by adding at the end a new paragraph to read:

The receipt of benefit under the Catastrophic Illness Program shall constitute an assignment by the recipient to the department of the right to recover from 3rd parties for medical costs of injury, disease, disability or similar occurrence for which the recipient receives medical benefits. The department's assigned right to recover shall be limited to the amount of medical benefits received by the recipient. The recipient shall also be deemed to have appointed the commissioner as his attorney in fact to perform the specific act of submitting claims to insurance carriers or endorsing to the department any and all drafts, checks, money orders or other negotiable instruments collected with the payment of 3rd-party medical claims. For the purposes of this paragraph, "3rd party" means any entity that is or may be liable to pay all or part of the medical costs of injury, disease, disability or similar occurrence of an applicant or recipient of benefits under the Catastrophic Illness Program.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that Part E, section 1, shall be effective retroactive to January 1, 1981, and Part E, section 2, shall be effective retroactive to July 1, 1980.

Effective June 16, 1981, unless otherwise indicated

CHAPTER 464

H. P. 220 — L. D. 298

AN ACT to Make Corrections and Clarifications in 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 previous Legislatures have resulted in certain technical errors and inconsistencies in the education laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is essential that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship from 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. 5 MRSA § 8002, sub-§ 2, first sentence, as enacted by PL 1977, c. 551, § 3, is amended to read:

“Agency” means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term shall not include the Legislature, Governor, courts, University of Maine, Maine Maritime Academy, **vocational-technical institutes**, school ~~districts~~ **administrative units**, special purpose districts or municipalities, counties or other political subdivisions of the State.

Sec. 2. 20 MRSA § 51, sub-§ 3, ¶B, as enacted by PL 1971, c. 610, § 4, is amended to read:

B. It shall be the responsibility of the State Board of Education to exercise the following specific powers and to perform the following duties in accordance with the statutes: Make recommendations to the Legislature for the efficient conduct of the public schools of the State; approve the formation of School Administrative Districts; establish, maintain and operate state technical and vocational institutes and schools of practical nursing; act upon applications for additions to and dissolution of School Administrative Districts; establish requirements for approval and accreditation of elementary and secondary schools; adjust subsidy to an administrative unit when the expenditures for education in such unit show evidence of manipulation to gain an unfair advantage or are adjudged excessive; grant permission for administrative units to enter into agreements for cooperative educational purposes; act upon articles of agreements for creation of an Interstate School District; develop and adopt a plan for the establishment of regional technical and vocational centers; approve standards for school construction; approve projects for state construction aid; approve the formation of community school districts; approve isolated secondary schools; obtain information regarding applications for granting degrees and make a recommendation to the Legislature; recommend funds to the Bureau of the Budget for equalization of educational

opportunity; establish a student loan insurance program; serve as state agency for administering federal funds ~~and~~; serve as an appeals board for unclassified personnel **establish standards for the certification of teachers and other professional personnel.**

Sec. 3. 20 MRSA § 213, last ¶, first sentence as last amended by PL 1973, c. 571, § 71, is further amended to read:

The board may, in addition to the power conferred in this section, approve the formation of a School Administrative District which had not less than 50 resident secondary pupils educated at public expense in grades 9 through 12 as indicated in the last return to the commissioner under section 966, provided that on the date of the approval there was on file with the board a contract offer duly authorized and executed running to the proposed School Administrative District from a municipality having 100 or more resident pupils educated at public expense in grades 9 through 12 as indicated on the last return to the commissioner under section 966, to take and educate all pupils in grades 9 through 12 in the proposed School Administrative District for a period of from ~~5 to 20~~ **2 to 10** years.

Sec. 4. 20 MRSA § 225, first ¶, as last amended by PL 1971, c. 180, § 3, is further amended to read:

When it is necessary to hold a district meeting to approve the issuance of bonds or notes for ~~capital outlay purposes~~ **school construction projects as defined in section 3471**, to approve a change in the selection of a school building site, to approve a change in the method of sharing costs among the member municipalities, to approve an agreement to add another municipality or municipalities to the School Administrative District, to approve an agreement to transfer a participating municipality to another School Administrative District, to approve an agreement to merge with another School Administrative District, or to approve a proposed lease agreement with the Maine School Building Authority, or to authorize the school directors to contract for the schooling of secondary pupils, or to authorize the school directors to dispose of real property, or to accept or reject a prospective gift, the school directors shall be authorized to call such meeting as follows:

Sec. 5. 20 MRSA § 225, sub-§ 2, ¶I, first sentence, as enacted by PL 1977, c. 195, is amended to read:

When requested by 10% of the number of voters voting for the gubernatorial candidates at the last statewide election in the municipalities comprising the district within 7 days of any prior district meeting, the directors shall call a district meeting **in accordance with this section** to be held within ~~30~~ **60** days of the presentation of the petition to reconsider any prior district meeting vote under this section.

Sec. 6. 20 MRSA § 226, sub-§ 3, last ¶, 3rd sentence, as enacted by PL 1975, c. 738, § 1, is amended to read:

The budget format shall be that prescribed by a majority of the school directors until such time as 20% of the numbers of registered voters certified by the several town or city clerks to the secretary of the school district, or 200, whichever is less, vote on an appropriate warrant article prescribing the school budget format.

Sec. 7. 20 MRSA § 302, 6th ¶, last sentence is amended to read:

In case any member of the board of school directors shall ~~remove from the municipality that he represents or be absent from said municipality for more than 90 days~~ change his residency from the municipality which he represents, a vacancy shall be declared to exist by the board of school directors and the selectmen or municipal officers shall thereafter choose another director as provided.

Sec. 8. 20 MRSA § 302, 6th ¶, as amended by PL 1973, c. 783, § 7-B is further amended by adding at the end a new sentence to read:

Evidence that an individual is registered to vote in a municipality is prima facie evidence of that individual's residency.

Sec. 9. 20 MRSA § 305, first ¶, 6th sentence, as amended by PL 1975, c. 510, § 11, is further amended to read:

If a budget for the operation of the School Administrative District is not approved prior to June 1st 30th, the budget as submitted by the school directors for operational expenses, reserve fund and capital outlay purposes shall be automatically considered the budget approved for operational expenses in the ensuing year, and the other amounts submitted for payment of bonds falling due and interest thereon, including temporary loans for capital purposes and rentals and other charges provided in any contract, lease or agreement with the Maine School Building Authority, shall be added together and the total amount assessed as follows.

Sec. 10. 20 MRSA § 305, 6th ¶, Alternate Method B, 2nd sentence, as amended by PL 1973, c. 571, § 23, is further amended to read:

The portion of the cost that is based on resident pupils shall be in the same proportion as the ~~October April 1st and April October 1st~~ average of resident pupils of the ~~calendar year preceding the convening of the Legislature prior to the year of assessment~~ in a member municipality bears to the total ~~October April 1st and April October 1st~~ average of resident pupils of the ~~calendar year preceding the convening of the Legislature prior to the year of assessment~~ in the district or municipalities of the proposed district; the portion of the cost that is based on state valuation shall be in the same proportion as the state valuation in a member municipality bears to the total state valuation in the district or the proposed district.

Sec. 11. 20 MRSA § 372, sub-§ 2, ¶E, as amended by PL 1979, c. 691, § 2, is further amended to read:

E. A vacancy, whether caused by death, by resignation or by being absent from the member ~~towns town~~ for more than 90 days, shall be filled by appointment by the municipal officers of the ~~towns town~~ which the former trustee represented until a successor trustee is elected for the unexpired term, if any, at the next annual town meeting in that town.

Sec. 12. 20 MRSA § 373, sub-§ 2, ¶ A, as repealed and replaced by PL 1979, c. 691, § 4 is repealed and the following enacted in its place:

A. A vacancy, whether caused by death, by resignation or by a member having changed his residence from the town which he represents, shall be filled by the school committee of the town in which the vacancy occurs. Evidence that an individual is registered to vote in a municipality is prima facie evidence of that individual's residency.

Sec. 13. 20 MRSA § 374-A is enacted to read:

§ 374-A. Authority to accept gifts

1. **Outright or in trust.** A community school district may accept and receive money or other property, outright or in trust, for any specified benevolent or educational purpose.

A. When the school committee receives written notice from a prospective donor or his representative of a proposed gift, outright or in trust, it shall submit the matter to the next regular meeting of the committee, and shall within 10 days after the meeting, send written notice of its acceptance or rejection.

B. If the gift is in trust the committee shall either deposit or invest trust funds according to Title 30, section 5051.

2. **Conditional.** A community school district may accept and receive money or other property as a conditional gift for any specified benevolent or educational purpose.

When the committee receives written notice from a prospective donor or his representative of a proposed gift, they shall submit the matter to the next regular meeting of the legislative body or shall call a special meeting for that purpose, and shall within 10 days after the meeting, send written notice of its acceptance or rejection.

Sec. 14. 20 MRSA § 472, 6th sentence, as amended by PL 1967, c. 425, § 19, is repealed and the following enacted in its place:

In case any member of the school committee establishes a new residency outside the town, a vacancy shall be declared to exist and the remaining members shall within 30 days thereafter choose another member as provided.

Sec. 15. 20 MRSA § 472, as last amended by PL 1973, c. 783, § 17, is further amended by adding after the 6th sentence a new sentence to read:

Evidence that an individual is registered to vote in a municipality is prima facie evidence of that individual's residency.

Sec. 16. 20 MRSA § 912, 2nd ¶, as enacted by PL 1977, c. 690, § 7, is amended by adding at the end a new sentence to read:

Once the contract has been entered into, the sending administrative unit shall file a copy of the contract with the department.

Sec. 17. 20 MRSA § 1281, sub-§ 6, as last amended by PL 1975, c. 293, § 4, is repealed and the following enacted in its place:

6. Hygienic facilities and equipment. It has safe and hygienic facilities, adequate equipment and supplies, all of which comply with the regulations established by the Department of Human Services and the Department of Educational and Cultural Services.

Sec. 18. 20 MRSA § 1289, as last amended by PL 1979, c. 670, § 9, is further amended by adding after the first sentence a new sentence to read:

If such a contract is agreed to, then a copy of the contract shall be placed on file with the department by the sending unit.

Sec. 19. 20 MRSA § 2202-A, sub-§ 5, as enacted by PL 1981, c. 103, § 2, is repealed and the following enacted in its place:

5. Exceptions. This section does not apply to the specific degree-granting authority granted to any educational institution by the Legislature prior to the effective date of this section.

Sec. 20. 20 MRSA § 2232, as last amended by PL 1973, c. 571, § 71, is further amended to read:

§ 2232. Loan insurance program established

The State Board of Education is authorized to establish a student loan insurance program to insure payment of loans to Maine students which meets the requirements of federal acts and statutes relating to federal, state and private programs of low-interest insured loans to students in institutions of higher education, as provided in the Higher Education Act of 1965 **and regulations adopted pursuant thereto**, for a state loan insurance program. To this end, the faith and credit of the State of Maine is pledged consistent with the terms and limitations of the Constitution of Maine, Article VIII, section 2.

Sec. 21. 20 MRSA § 4743, sub-§ 16, ¶¶ F and G, as enacted by PL 1977, c. 625, § 8, are amended to read:

F. Special education programs defined in subsection 47 18;

G. Vocational education programs defined in subsection 24 23; and

Sec. 22. 20 MRSA § 4748, sub-§ 4, as amended by PL 1979, c. 670, § 21, is repealed and the following enacted in its place:

4. Special education allocation; state wards.

A. The special education allocation shall be the expenditures for special education programs operated or contracted for by the administrative unit and the expenditures for special education tuition or board, or both. Medical costs shall not be allowable as a part of a tuition charge.

B. Special education tuition and board for state wards and other pupils placed directly by the State shall be paid by the State in the year of allocation at 100% of the actual cost.

Sec. 23. 20 MRSA § 4748, sub-§ 7, ¶ D, sub-¶ (3), as enacted by PL 1979, c. 670, § 22, is amended to read:

(3) The sum of the member ~~unit's~~ **units'** state allocations for vocational region debt service shall be the region's state allocation for debt service.

Sec. 24. 20 MRSA § 4749, sub-§ 2, ¶ A, as enacted by PL 1977, c. 625, § 8, is amended to read:

A. The commissioner, with the approval of the State Board of Education, shall determine geographic isolation if a unit ~~operates a school which~~ is located an unreasonably long distance from another ~~unit or~~ school facility or is situated in a location which has unique problems in transporting students to another school unit.

Sec. 25. 20 MRSA § 4749, sub-§ 4, ¶ A, **first sentence**, as enacted by PL 1977, c. 625, § 8, is amended to read:

A unit may qualify for an unusual enrollment ~~subsidy~~ adjustment to the state-local allocation whenever the increase in pupils between October 1st of the year of allocation of funds and October 1st of the year prior to the year of allocation of funds is 3% or more.

Sec. 26. 20 MRSA § 4749, sub-§ 4, ¶¶ **D and E**, as enacted by PL 1977, c. 625, § 8, are repealed.

Sec. 27. 20 MRSA § 4751, sub-§ 3, as enacted by PL 1977, c. 625, § 8, and as last amended by PL 1979, c. 246, § 2; and as repealed and replaced by PL 1979, c. 568, § 5 and last amended by PL 1979, c. 711, Pt. D, § 6, is repealed and the following enacted in its place:

3. Local leeway. Provisions concerning local leeway are as follows.

A. The legislative body of an administrative unit may, in addition to the unit's state-local allocation under sections 4748 and 4749, authorize an additional expenditure for either elementary or secondary pupils, or both, not to exceed a local appropriation for each municipality of 1.2 mills on the state valuation in effect on July 1st or \$125 per pupil, whichever is less, for the 1980-81 year of distribution. No unit may participate in local leeway unless it has raised the minimum amount of its local allocation, as computed by the commissioner under subsection 1, paragraph A or as provided under subsection 1, paragraph D. For the 1981-82 year of distribution only, administrative units that vote to raise local leeway at 1.2 mills and \$125 per pupil or a specified portion of that levy shall not be required to obtain further voter approval for adjustment of state and local shares for local leeway and any appropriation without state participation within the limits previously approved by the unit's legislative body and the Legislature.

B. Any unit may appropriate funds under this subsection no later than 90 days following the final adoption of the school budget. Any unit may file a request for a waiver of this requirement with the State Board of Education. If any unit files a request and demonstrates to the satisfaction of the State Board of Education that unusual circumstances require additional appropriations under this subsection in order to avoid serious educational hardship in the unit, the State Board of Education may grant the unit a waiver and authorize these additional appropriations.

C. The local appropriations shall be divided equally over a 12-month period.

D. The funds appropriated under this subsection shall be called "local leeway."

(1) The purpose of these appropriations is to provide that all administrative units may raise and appropriate at least the amount per pupil established at the computed mill rate for that year under this subsection to supplement the adjusted allocations when necessary in the judgment of the local administrative units.

(2) The amount appropriated by the Legislature under section 4747, subsection 6 shall be the maximum state obligation under this subsection.

E. Administrative units are authorized to establish an "accounts receivable" in anticipation of state aid under this subsection when the fiscal year closes on June 30th.

F. If the authorization for additional funds by an administrative unit under this subsection exceeds the maximum levy for any municipality within the administrative unit, the commissioner shall add to the allocation of the unit for the unit's fiscal year a sum which equals the excess over the maximum levy of any municipality within the unit.

G. If the additional school levy authorized under this subsection fails to produce the amount per pupil established at the computed mill rate for that year under this subsection, the commissioner shall add to the allocation of the unit for the unit's fiscal year a sum which, when combined with the local levy under this section, equals the amount per pupil established at the computed mill rate for that year under this subsection. This sum shall be paid annually to the unit no later than December 31st for the previous 12-month period.

H. If the administrative unit raises less than the maximum allowed under this subsection, the levy on any municipality within the administrative unit shall be in the same proportion as the municipality's share is to the total when the maximum amount allowed is raised.

I. If the administrative unit raises less than the maximum allowed under this subsection, the State shall pay its share in the same proportion to the maximum state share that the amount raised locally is to the maximum local share.

J. An article in substantially the following form is to be used when any municipality, School Administrative District or community school district is considering the appropriation of additional local funds under this subsection:
Article : To see what sum the municipality or district shall appropriate from local leeway for school purposes (recommended total \$, local share \$, state share \$), and to see if the municipality or district shall raise the local share of \$

K. The provisions of paragraph I shall not apply to any unit whose local allocation is equal to or greater than its state-local allocation, but the unit shall report to the commissioner the amount of the appropriation for local leeway.

Sec. 28. 27 MRSA § 38, as amended by PL 1975, c. 771, § 291, is further amended by adding after the first sentence a new sentence to read:

The Maine State Library Bureau is the sole agency authorized to develop, submit and administer or supervise the administration of any state plan required under such law.

Sec. 29. 27 MRSA § 110, sub-§ 5, as enacted by PL 1973, c. 626, § 6, is repealed and the following enacted in its place:

5. District council. "District council" means an advisory body representing a constituency of participating libraries within a geographical district.

Sec. 30. 27 MRSA § 114, sub-§ 2, ¶ A, as enacted by PL 1973, c. 626, § 6, is repealed and the following enacted in its place:

A. Serve as an advisory body for the districts.

Sec. 31. 27 MRSA § 117, sub-§ 1, first ¶, as enacted by PL 1973, c. 626, § 6, is repealed and the following enacted in its place:

The district consultant shall serve as secretary of the district council and further shall:

Sec. 32. 27 MRSA § 117, sub-§ 1, ¶D, as enacted by PL 1973, c. 626, § 6, is amended to read:

D. Provide liaison between the district, other districts and ~~state agencies~~ the Maine State Library;

Sec. 33. 27 MRSA § 117, sub-§ 1, ¶F, as enacted by PL 1973, c. 626, § 6, is repealed and the following enacted in its place:

F. Work with area reference and resource center staff members in planning area reference and interlibrary loan service; and

Sec. 34. 29 MRSA § 2015, sub-§ 2, as enacted by PL 1973, c. 780, § 4, is repealed and the following enacted in its place:

2. Exhaust pipe. The exhaust pipe shall be entirely outside the passenger compartment of every school bus.

Sec. 35. 29 MRSA § 2020, as amended by PL 1979, c. 2, is further amended by adding at the end a new paragraph to read:

Vehicles with a carrying capacity of 20 or less passengers, whether publicly or privately owned, used to transport children to day care or head start facilities are exempt from the requirements of this chapter.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 16, 1981

CHAPTER 465

H. P. 1508 — L. D. 1622

AN ACT to Revise the Salaries of Certain County Officers.

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

Whereas, it has become necessary to revise the salaries of certain county officials; and

Whereas, these revisions are vitally necessary at the earliest possible time this law can become effective; and