

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

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September 25, 1981

AND

THIRD SPECIAL SESSION

December 9, 1981

AND

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

AND AT THE

FOURTH SPECIAL SESSION

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AND AT THE

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TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co.
Augusta, Maine
1981

**[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO
THREE ELECTRONIC FILES. THIS IS THE THIRD FILE.]**

SUBPART IIIOTHER PROGRAMSCHAPTER 315ADULT EDUCATION§8601. Purpose

Since education is a lifelong process, it is declared to be the policy of the State to provide and encourage the growth of educational opportunities for all adults.

§8602. Rules

The commissioner shall adopt or amend rules to establish program definitions for adult vocational courses, general adult courses, handicapped adult courses, high school completion courses and basic literacy courses.

§8603. Authority to raise money

A school administrative unit may:

1. Support adult education. Raise and appropriate money for the support of adult education classes and educational activities. These classes and activities shall be under the direction and supervision of the school board; and

2. Tuition. Raise, appropriate and expend money to cover the tuition costs resulting from its residents attending adult education courses in another school administrative unit, if the courses are not offered by the unit of residence.

§8604. Authority to operate programs not receiving state aid

A school board may make available facilities for adults for day and evening educational and recreational activities not reimbursed by the State. These courses and activities may be financed by tuition fees, by funds voted by the school administrative unit, by funds from other sources or by a combination of these.

§8605. Participation in adult education

1. General. A person who is 17 years of age or older and who is not attending public schools may attend local

adult education courses in accordance with local program criteria.

A. The commissioner shall grant exceptions under this subsection in admitting students to adult education programs at the local level to a student who has left school under the provisions of section 5001, subsection 2, paragraph B, on the recommendations of the school board.

B. Prior to requesting an exception, the school board shall seek and consider the recommendations of the positive action committee.

C. Students enrolled in public day school programs may participate in adult education programs or adult vocational programs to supplement the regular day school program on an exception basis in accordance with rules adopted or amended by the commissioner.

2. School age student; student count; reimbursement; enrollment in neighboring unit. School age students may enroll in adult evening school courses as follows.

A. A student between the 16th and 20th anniversaries of his birth, who enrolls in a semester adult evening school course, shall be counted as .1 of a student.

B. The school administrative unit in which a student resides shall be reimbursed in accordance with chapter 605.

C. If a unit does not offer an appropriate adult evening school course, the student may enroll in a neighboring school administrative unit or private school, subject to the approval of the sending unit's superintendent. The sending unit shall pay tuition to the receiving unit in an amount no greater than .1 of the present per student subsidy allocation for secondary students in the sending unit.

§8606. Reimbursement procedures

1. Commissioner certification. Prior to February 1st of each year, the commissioner shall prepare and certify to the Legislature and to the Bureau of the Budget a recommendation for the funding levels for the various program categories in adult education.

A. The requested funding levels shall be computed by adding the actual costs for the first half of the year

immediately prior to the year of allocation of funds to the total estimated costs that will be incurred for the 2nd half of the same year.

B. The commissioner may amend an estimate if the commissioner believes that estimate to be unreasonable.

C. If a school administrative unit fails to submit the necessary information required in this section within the time specified by the commissioner, the commissioner shall estimate that unit's education cost.

2. State reimbursement. State reimbursement for expenditures on adult education programs shall be based on the total expenditure less income from federal sources.

A. The reimbursement shall be based on the net expenditures, or the report of expenditures for the first 6 months and the estimate of the expenditures for the last 6 months of the fiscal year, as approved by the commissioner, whichever is lower.

B. State aid will be paid to the school administrative units during the 2nd quarter of the state's fiscal year following the unit's expenditure.

C. If the Legislature fails to appropriate sufficient funds for reimbursement, state aid to school administrative units will be prorated.

§8607. Reimbursement rates

Reimbursement rates shall be as follows.

1. Administrative costs. School administrative units shall be reimbursed 70% of the administrative cost for evening and day school classes and educational activities for adults in the year following the expenditure. Administrative cost shall include administrative, supervisory and clerical salaries and the costs of maintaining and operating citizens' advisory committees.

2. Adult vocational education courses. Adult vocational education courses shall be reimbursed at the rate of 75% of the cost of instructional salaries and 50% of the cost of consumable supplies.

3. General adult courses. Courses provided for the general public in vocational, leisure and life skill programs shall be reimbursed at the rate of 50% of the cost of instructional salaries.

4. Handicapped adult courses. Handicapped adult courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

5. High school completion courses. High school completion courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

6. Basic literacy courses. Basic literacy courses shall be reimbursed at the rate of 75% of the cost of instructional salaries.

§8608. Teacher education reimbursement

The commissioner shall add to his budget request a sum not to exceed 5% of the sum recommended for reimbursement to school administrative units for preservice and in-service education activities for teachers in adult education.

§8609. Fees for adult education

Fees for adult education shall be as follows.

1. Registration fee. A school administrative unit, with the approval of the commissioner, shall establish a registration fee schedule and determine the use of those registration fees.

2. Materials fee. A school administrative unit may charge a student attending a course a fee to cover the actual cost of materials used.

§8610. Adult vocational education authority

Adult vocational education programs may be offered under the following provisions.

1. Basic authority. A vocational region or vocational center may offer adult vocational education programs within its geographic area.

2. Request for program approval. A school administrative unit in a vocational region or a unit served by a vocational center may make a request to the cooperative board of the vocational region or the governing body of the vocational center that adult education courses be offered in that school administrative unit.

3. Board approval. The cooperative board of the vocational region or the governing body of the vocational center may approve adult vocational education courses in the

requesting school administrative unit.

4. Adequate funding. The offering of adult vocational education courses shall be dependent upon school administrative units appropriating sufficient funds to pay for the courses.

5. Persons entitled to attend. Adult vocational education courses offered in a school administrative unit shall be open to any adult who needs retraining or upgrading. If space is limited, priority shall be given to the residents of the unit offering the program.

6. State reimbursement. State reimbursement shall be made to a school administrative unit in accordance with section 8607. If the request to operate a reimbursable adult vocational education course is disapproved by the cooperative board of the vocational region or by the governing body of the vocational center, the school administrative unit may appeal to the commissioner for authority to offer the course. His decision is final and binding.

§8611. Transportation

A school administrative unit may provide transportation for adults to and from adult education programs.

CHAPTER 317

SUMMER SCHOOLS

§8801. Summer schools; standards; approval

Standards for summer schools shall be as follows.

1. Standards. The state board shall adopt or amend rules to establish standards consistent with section 4401 for summer schools offering credit toward graduation from a Maine elementary or secondary school.

2. Approval. The state board shall direct an inspection after which he may approve and grant a certificate to a school that maintains those standards. The expense of inspection shall be paid by the department.

§8802. Summer school tuition

The following provisions apply to summer school tuition.

1. Tuition. A school administrative unit may charge

the students a tuition for enrollment in a summer school.

2. Maximum amount. Tuition may not exceed the following:

A. In the first summer of its operation, the average cost for each student in all summer schools in the State for the preceding summer;

B. When a summer school is operated for 2 or more school administrative units and is operated alternately by a different unit each summer, the cost for each student for the preceding summer; and

C. In all other cases, the cost for each student for the preceding summer.

3. Equality. Tuition in a summer school shall be the same for all students who are Maine residents.

4. Rules. The commissioner shall adopt rules for determining the allowable cost for each student under this section.

CHAPTER 319

FIREFIGHTER TRAINING

§9001. Program

The commissioner may conduct programs to provide training for members of municipal fire departments, incorporated volunteer fire departments and industrial and institutional fire brigades.

The commissioner may not require participation in these programs by a member of a municipal fire department, incorporated volunteer fire department or industrial or institutional fire brigades nor use participation in training programs as a condition of eligibility to receive funds for training programs.

§9002. Advisory committee

An advisory committee shall be established to advise the commissioner in the administration of section 9001.

1. Establishment. The commissioner shall appoint a 13-member advisory committee as follows:

A. One municipal chief, one call chief and one volun-

teer chief recommended by the Maine Fire Chiefs' Association, Inc.;

B. One municipal firefighter, one call firefighter and one volunteer firefighter recommended by the Maine Federation of Firefighters, Inc.;

C. One city or town manager and one selectman recommended by the Maine Municipal Association, Inc.;

D. One member of an industrial or institutional fire brigade recommended by the Maine Safety Council;

E. One representative from the field of insurance recommended by the Maine Insurance Association, Inc.;

F. Two members recommended by the Maine Council of Firefighters, Inc.; and

G. One member of the general public.

2. Term of office. Members shall be appointed for a term of 3 years.

3. Chairman. The committee shall elect a member as chairman.

4. Expenses. The members shall be reimbursed for their expenses, but may not receive other compensation for service on the committee.

5. Nonvoting representative. The department's consultant for the fire service training program shall be a nonvoting representative of the department at the committee meetings.

§9003. State agents for federal programs

The following provisions shall apply to federal fire programs in the State.

1. Commissioner; state agent. The commissioner shall be the state agent to be contacted by the United States Fire Administration about matters dealing with the Federal Fire Prevention and Control Act of 1974, Public Law 93-498.

2. Department; testing; certification. The department shall be the state testing agency for the National Professional Qualification Board of the Joint Council of Fire Services Organizations. The commissioner may award certificates to personnel of municipal and incorporated volunteer

fire departments using competency standards established by the Joint Council of Fire Services Organizations.

CHAPTER 321

CORRESPONDENCE SCHOOLS

§9201. Certificate of approval; exemptions

1. Requirement for certificate of approval. Any privately owned correspondence school located either within or outside the State shall obtain a certificate of approval from the commissioner before soliciting or selling in Maine any correspondence course or collecting any tuition, fee or other charge. In addition, each correspondence school shall supply a listing of solicitors authorized by it to recruit in Maine.

2. Exceptions. Public institutions which are exempt from property taxation under Maine laws, and courses or programs of instruction conducted under contract with an employer for employees exclusively, are exempt from the requirements of this chapter.

§9202. Application form; fee; bond

1. Application requirements; certification period; bonding and revocation of certificate. The application for a certificate of approval required in section 9201 shall be made on forms furnished by the commissioner and shall be accompanied by a fee of \$50 and a surety bond in the penal sum of \$1,000.

A. A certificate shall be valid for the calendar year in which it is issued.

B. The bond shall be continuous and shall provide indemnification to any student suffering loss as a result of any fraud or misrepresentation by the school. the bond shall provide for written notification by the surety to the department in the event of cancellation. Cancellation of the bond by the surety shall result in the revocation of the certificate of approval.

2. Renewal. A fee of \$25 shall be charged for the renewal of a certificate.

3. General Fund. All fees collected for the issuance or renewal of a certificate shall be deposited in the State Treasury.

§9203. Penalty

Any firm, association or corporation, operating or conducting a private correspondence school, except by authority of a valid certificate of approval as required by this chapter, is guilty of a civil violation for which a forfeiture of not more than \$1,000 may be adjudged.

§9204. Rules

The commissioner is authorized to adopt rules for the administration and enforcement of this chapter.

CHAPTER 323TRADE AND TECHNICAL SCHOOLS§9501. Certificate of approval; exempt institutions

1. Requirement of certificate of approval. Any person, partnership, corporation or school located either within or outside the State shall obtain a certificate of approval from the commissioner before conducting any course of instruction or before collecting any tuition, fee or other charge for conducting or soliciting for any educational services or related training.

2. Exemptions. Schools of hairdressing and beauty culture which are subject to approval by the State Board of Cosmetology, educational programs related to the real estate professions which are subject to approval under Title 32, chapter 59, educational programs offered by any Maine non-profit corporation, any educational programs offered by any professional or trade association primarily for the benefit of its own members and any institution authorized by the laws of this State to grant a degree are exempt from the requirements of this chapter.

§9502. Application form; fee; bond

1. Application requirements; certification; bonding and cancellation of certificate. The application for a certificate of approval required in section 9501 shall be made on forms furnished by the commissioner and shall be accompanied by a fee of \$100 and a surety bond in the penal sum of \$1,000.

A. A certificate of approval is valid for the calendar year in which it is issued.

B. The bond shall be continuous and shall provide

indemnification to any student suffering loss as a result of any fraud or misrepresentation. The bond shall provide for written notification by the surety to the department in the event of cancellation. Cancellation of the bond by the surety shall result in the revocation of the certificate of approval.

2. Renewal fee. A fee of \$50 shall be charged for the renewal of a certificate.

3. General Fund. All fees collected for the issuance or renewal of a certificate shall be deposited in the State Treasury.

§9503. Penalty

Any person, partnership, corporation or school which operates or maintains a private business, trade or technical school in violation of this chapter, or represents itself as operating and maintaining such a school, is guilty of a Class E crime.

§9504. Rules

The commissioner may adopt rules for the administration and enforcement of this chapter.

PART 5

POST-SECONDARY EDUCATION

CHAPTER 401

GENERAL PROVISIONS

§10001. Hemophiliacs

1. Participation in physical activity. A post-secondary institution may not require a hemophiliac to participate in physical activity hazardous to his physical health, as a condition or requirement for a degree, unless the physical activity is approved by the state board as an essential prerequisite to that degree.

2. Admission. A post-secondary institution may not refuse admission to a hemophiliac solely because of his condition as a hemophiliac, unless that condition would prevent participation in required courses of study of physical activity.

§10002. Records of educational institutions

1. Preservation of records. The trustees or officers

of a post-secondary institution, on going out of existence or ceasing to function as an educational institution, shall turn over records of attendance and academic achievements by its students to the department. The department shall preserve these records.

2. Duty of the commissioner. The commissioner shall collect all attendance and academic records of post-secondary institutions within the State which are now extinct and deposit the records in a place of safety and accessibility for preservation and future use.

3. Preparation of transcript. When requested, the commissioner shall prepare transcripts of grade records from these records of extinct institutions, when they are needed by the former student for:

A. Further scholastic work at another institution of learning; or

B. Certification for teaching or for other professional positions.

4. Copy as best evidence. When a transcript is made from the original and certified by the commissioner, it shall be considered and accepted as legal evidence and, for all other purposes, as if it was the original.

5. Fee. The department shall charge a nominal fee for the actual cost of preparing those transcripts.

§10003. Fees for degrees

An officer of a post-secondary institution may not receive as prerequisite a fee for a degree granted by the institute. Fees of this type shall be paid into the institution treasury.

CHAPTER 403

VOCATIONAL-TECHNICAL INSTITUTES

§10101. Purpose and intent

1. Purpose. The purpose of this chapter is to:

A. Create vocational-technical institutes in Maine which will be able to respond to the needs of the people of the State for vocational, technical and occupational training; and

B. Provide for responsive administration of the vocational-technical institutes.

2. Intent. It is the intent of the Legislature that the vocational-technical institutes shall:

A. Provide vocational, technical and occupational education for those who demonstrate aptitude and need and who require training designed for service in a trade, industry or commerce;

B. Provide each graduate with job skills;

C. Provide the general education necessary to complement the requirements of specific vocational and technical skills;

D. Provide supplementary educational programs to upgrade those persons already employed or retrain persons for new employment opportunities; and

E. Provide special programs for disadvantaged and handicapped persons to permit them to take maximum advantage of their aptitudes and interests.

§10102. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Institute. "Institute" means a vocational-technical institute as established in section 10103.

§10103. Establishment of institutes

The following vocational-technical institutes are established and shall be located within the general vicinity of the municipalities named in the following subsections:

1. Central Maine Vocational-Technical Institute in the City of Auburn;

2. Eastern Maine Vocational-Technical Institute in the City of Bangor;

3. Kennebec Valley Vocational-Technical Institute in the City of Waterville;

4. Northern Maine Vocational-Technical Institute in the City of Presque Isle;

5. Southern Maine Vocational-Technical Institute in

the City of South Portland; and

6. Washington County Vocational-Technical Institute in the City of Calais.

§10104. State board's general duties and authority; establishment of additional institutes

1. General duties. The state board shall maintain and operate the institutes established in section 10103 and have policy-making and planning authority for them.

2. Authority. The state board may, in operating these institutes:

A. Offer courses of study;

B. Grant diplomas and certificates on completion of a course of study;

C. Confer associate degrees based upon 2 years of instruction with equipment and facilities which will safeguard the integrity of the degrees conferred;

D. Charge tuition and other reasonable fees;

E. Establish qualifications for admission; and

F. Accept and expend all funds for post-secondary vocational education received by the department from:

(1) The General Fund;

(2) Gifts and donations either from public or private sources which are offered unconditionally;
or

(3) Fees.

3. Establishment of additional vocational-technical institutes. The state board may establish, maintain and operate vocational-technical institutes to promote specialized training for persons who give evidence of special aptitude or need and who desire specialized training designed specifically to train for service in trade, industry or commerce.

§10105. Directors of institutes

1. Appointment of directors. The commissioner, with the approval of the state board, shall appoint the directors

of the institutes.

2. Salary range. The commissioner, with the approval of the state board, shall establish the salary range for directors and assistant directors.

3. Job title and salary range for new positions. The state board, consistent with Title 26, chapter 12, shall make recommendations to the Department of Personnel and the Bureau of the Budget concerning the appropriate job title and salary range for each newly-created position in the unclassified service at an institute. The recommendations shall be based on the level of job responsibilities of the position created.

4. Change of job title and salary range. The state board, consistent with Title 26, chapter 12, shall make recommendations to the Department of Personnel and the Bureau of the Budget to change the job title or salary range of any existing position in the unclassified service at an institute if an identifiable change in job responsibilities occurs.

§10106. Funding levels; capital construction plan; budget

1. Funding levels. Prior to September 1st of even-numbered years, the state board shall certify and present to the Governor the funding levels which it recommends for the operation of the institutes. It shall report those recommendations to the Legislature prior to November 15th of even-numbered years.

2. Long-range capital construction plan. With the requested funding levels, the state board shall submit a long-range capital construction plan in priority order. This plan shall be submitted to the Legislature with the required report.

3. Costs of maintenance, repairs and capital construction. Notwithstanding any other provision of law, the directors shall include the costs of maintenance, repairs and capital construction at the institutes in the funding level requests presented to the state board. In the preparation, development and submission of funding requests for maintenance, repairs and capital construction, the state board shall consult with the Bureau of Public Improvements. Funds appropriated for maintenance, repairs and capital construction at the institutes shall be allocated and expended only for authorized purposes.

§10107. Contingent account

There is established under Title 5, section 1507, a

contingent account for the institutes and the procedures for allocation of contingent account funds.

§10108. Operation of courses at a secondary vocational facility; administration; tuition charges

1. Courses offered. Institute vocational courses at grade levels 13 and 14 may be operated in vocational centers or vocational regions if approved by the state board.

2. Administration. If these courses are not part of an adult education program, they shall be administered as satellite programs of an institute designated by the state board.

3. Tuition. Tuition for these courses shall be charged directly to the students enrolled, at rates approved by the state board.

§10109. State scholarships at the vocational-technical institutes

1. Scholarships. The state board shall develop and administer a program of scholarships for students enrolled at an institute. A student selected to receive a scholarship shall fulfill the following qualifications:

A. Show evidence of the qualifications necessary to successfully complete the course of study and to become a competent craftsman in a trade or industrial pursuit;

B. Show demonstrated ability and willingness to support the expenses of training; and

C. Show demonstrated need of partial financial assistance to pay the cost of attendance at the institute.

2. Limitation. A scholarship may not exceed \$250 in one year.

3. Allocation of scholarships. Amounts available for these scholarships shall be distributed annually by the state board to the institutes as follows:

A. \$1,500 or the equivalent of 6 full scholarships to each institute; and

B. Allocation of the balance of the scholarship fund to each institute in the same proportion as the institute's enrollment is of all of the institutes for

the fall semester of the current year.

4. Awards. Awards shall be based on evidence of individual need and worth.

5. National Guard Scholarship Program. Members of the Maine National Guard with over 10 years' continuous service may be awarded scholarships at vocational-technical institutes not to exceed 3 credit hours or the equivalent each semester. The guard shall select those who will receive scholarships from among those members eligible for admission to a vocational-technical institute. The program shall be administered by the state board.

§10110. Journeyman's examinations

An individual may take a journeyman's examination conducted by the following boards in accordance with the following requirements.

1. Electricians' Examining Board. The individual:

A. Who has completed satisfactorily a course of instruction certified by the Electricians' Examining Board at a Maine vocational-technical institute may take the journeyman's examination and after passage of the examination and after working in the field of electrical installation for 4,000 hours under the supervision of a master electrician or the equivalent shall receive a journeyman's license. The board shall adopt a written criteria for certification of a course of instruction; or

B. Who is enrolled in a course of instruction at a Maine vocational-technical institute on January 1, 1982, is entitled to take a journeyman's examination. Upon the successful completion of that course of instruction and after passage of the examination, the student shall receive a journeyman's license.

2. Oil and Solid Fuel Board. The individual has completed an approved course of at least 1,000 hours of instruction related to the respective field at a Maine vocational-technical institute, a post-secondary satellite program at a vocational region or vocational center or an equivalent training approved by the Oil and Solid Fuel Board.

3. Plumbers' Examining Board. The individual has completed a course of instruction at a vocational institute in plumbing.

§10111. Police officer at institutes

1. Appointment. Subject to the Personnel Law, a director may appoint persons to act as police officers. These police officers shall, within the limits of the property owned by or under the control of the institutes, possess all the powers of police officers in criminal cases.

2. Guidelines. The state board may establish guidelines by which each director may make rules for the control, movement and parking of vehicles within the limits of the property owned by or under the control of the institute.

3. Rules. A director's rule shall be adopted or amended in accordance with section 3. It shall have the same force and effect as a municipal ordinance. District Courts may impose fines, not to exceed \$10, for each violation of these rules.

4. Evidence and waiver. The state board may adopt the provisions of Title 30, section 2151, subsection 3, paragraph A, relating to prima facie evidence and the establishment of a waiver of court action by payment of specified fees.

CHAPTER 405POST-SECONDARY EDUCATION COMMISSION OF MAINE§10301. Establishment

The Post-secondary Education Commission of Maine, hereafter in this chapter called the "commission," is established to exercise the powers and perform the duties set forth in this Title.

§10302. Short title

This chapter may be cited as the "PECOM ACT."

§10303. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Post-secondary education. "Post-secondary education" means formal instruction primarily for students who have completed grade 12 or the equivalent. It shall not be limited to programs leading to a degree and shall include vocational, technical and career education. It shall not include adult basic education programs administered by

school administrative units.

§10304. Membership of commission

The membership of the commission shall be as follows.

1. Membership. The Post-secondary Education Commission of Maine shall consist of 16 members drawn from the following groups.

A. Six members shall be members of principal public governing and administrative boards concerned with post-secondary education in Maine and the Maine Advisory Council on Vocational Education. The members shall be selected in accordance with the procedures of the bodies they represent. These positions shall be assigned as follows:

(1) Two positions for members of the Board of Trustees of the University of Maine;

(2) One position for a member of the state board;

(3) One position for a member of the Maine Advisory Council on Vocational Education;

(4) One position for a member of the Board of Trustees of the Maine Maritime Academy; and

(5) One position for a member of the Maine Delegation of the New England Board of Higher Education. This member shall not, at the time of appointment or during membership of the Post-secondary Education Commission of Maine, be the Chancellor of the University of Maine, the commissioner or an administrative officer or member of the governing board of a public, private nonprofit or proprietary post-secondary educational institution in Maine.

B. Three members shall represent private nonprofit institutions of post-secondary education in Maine. These representatives shall be appointed by a subcommittee of the Higher Education Council in Maine composed of private college members. This subcommittee shall not be limited in its choice of representatives to members of the Higher Education Council of Maine, but also shall consider administrative officers and members of the governing boards of any private nonprofit institution of post-secondary education.

C. One member shall represent proprietary institutions of post-secondary education in Maine. This representative shall be appointed by the Governor and shall be a chief executive officer or member of the governing board of a federally recognized proprietary institution of post-secondary education, as defined in the United States Higher Education Act of 1965, Public Law 89-329, United States Code, Title 20, Section 1070 (a), as amended.

D. Four members shall represent the general public. These members shall not be employees of, or members of the governing body of, a public, private nonprofit or proprietary institution of post-secondary education in this State. Representatives of the general public in this State shall be appointed by the Governor.

E. The Chancellor of the University of Maine and the commissioner shall serve as ex officio members of the commission.

2. Terms. Each member shall be appointed for a term of 4 years. A member shall serve until his successor has been duly appointed and qualified.

3. Eligibility. A position shall become vacant if the member appointed to it ceases to meet the qualifications for that position.

4. Vacancy. If a vacancy occurs prior to the expiration of a term, an eligible person may be appointed by the appointing authority to serve for the remainder of the unexpired term.

5. Expenses. Members shall serve without pay, but shall be reimbursed for travel and other expenses incurred in the performance of their official duties.

§10305. Appointment of the chairman and vice-chairman

The chairman and vice-chairman of the commission shall be appointed by the members of the commission from among the 4 public members. The terms of the chairman and vice-chairman shall be coterminous with their terms on the commission.

§10306. Meetings

Commission meetings shall be held at least quarterly or upon call of the chairman on 5 days' written notice to the members. If the chairman is absent or refuses to call a

meeting, any 4 members may call a meeting by similar notices in writing.

§10307. Staff

The appointment of an executive director and the employment and retirement status of other staff shall be as follows.

1. Executive director. The commission may appoint an executive director, who shall serve at the pleasure of the commission and shall maintain offices in Augusta. The compensation of the executive director shall be fixed by the Governor.

2. Other staff. The commission may employ other professional and clerical staff.

3. Retirement benefits. A commission employee shall be eligible to become a member of the Maine State Retirement System.

§10308. Powers and duties

The commission shall:

1. Comprehensive planning. Conduct comprehensive planning for post-secondary education in Maine, including planning in cooperation with the New England Board of Higher Education and other New England states. This planning shall assure the development, maintenance and accessibility of diversified post-secondary educational opportunities of high quality for Maine citizens. It shall seek efficient use of limited resources through promotion of voluntary coordination and cooperation among institutions and educational sectors and through encouragement of efforts to avoid unnecessary duplication of institutions, programs and facilities. This comprehensive planning shall take into consideration the educational, cultural, social and economic contributions to Maine of all of the post-secondary educational institutions in the State. It is the intent of the Legislature that this comprehensive planning shall lead to a cohesive system of post-secondary education involving all of the public, private nonprofit and proprietary post-secondary educational institutions in the State;

2. State commission under United States Higher Education Act, Section 1202. Serve as the state commission as required under the United States Code, Section 1202 of the United States Higher Education Act of 1965, Public Law 89-329, Title 20, United States Code, Section 1141, et seq,

as amended;

3. Annual report. Present a report annually, before December 31st, to the Governor and the Legislature on "The State of Post-secondary Education in Maine," in which it reviews the comprehensive planning for the previous year and makes recommendations based on this planning which might lead to the maximum realization of the objectives of subsection 1; and

4. Studies. Undertake studies on post-secondary education in this State, as requested by the Legislature and the Governor, and provide reports and information to legislative committees as requested.

§10309. Collection of information

The commission may request institutions of post-secondary education in Maine to submit information reasonably necessary for the commission to carry out responsibilities defined by federal and state law and to perform effective comprehensive planning. This authority shall be limited by safeguards necessary to protect the confidentiality of information related to specific persons.

§10310. Limitations of the authority of commission with respect to institutions

The provisions of this Title related to the authority, responsibilities and functions of the commission may not be construed as authorizing the commission to infringe on or substitute its authority for or otherwise modify the governing authority of any institution of post-secondary education.

§10311. Designation of PECOM as the state agency or state commission for the purposes of certain federal programs

The Post-secondary Education Commission of Maine shall be designated as the state agency or state commission for the following purposes.

1. Designation. The commission is designated as the state commission as required by the United States Code, Section 1202, subsection (a) of the United States Higher Education Act of 1965, as amended, Title 20, United States Code, Section 1142a.

2. Powers. The commission may develop plans, rules and procedures, and establish or designate advisory commit-

tees, councils or task forces to carry out the requirements of the federal laws and other programs for which the commission is assigned responsibility under this section.

3. Other functions. The commission may undertake other functions assigned by federal law or regulation to state commissions designated pursuant to the United States Code, Section 1202 of the United States Higher Education Act of 1965, as amended, Title 20, United States Code, Section 1142a.

4. Funds. The commission may accept and disburse all moneys in accordance with the United States Code, Section 1202, the United States Higher Education Act of 1965, as amended, for which the commission is assigned responsibility under this section.

CHAPTER 407

THE MAINE STATE COMMISSION FOR

HIGHER EDUCATION FACILITIES

§10501. Purpose

The purpose of this chapter is to authorize the Maine State Commission for Higher Education Facilities to conduct, either directly or through other appropriate agencies or institutions, comprehensive planning to assist the institutions of higher education in Maine to construct needed classrooms, laboratories and libraries in order to accommodate mounting student enrollments and to meet demands for skilled technicians and for advanced graduate education, as set forth under the United States Higher Education Facilities Act of 1963, Public Law 88-204, as amended by Public Law 89-752, Section 3.

§10502. Duties

The Maine State Commission for the Higher Education Facilities may establish plans and rules or amend existing plans and rules in accordance with the United States Higher Education Facilities Act of 1963, Public Law 77-204, as amended by Public Law 89-752, Section 3, and requirements of the Federal Government established under that Act, as amended. It may also accept and disburse all moneys in accordance with that Act.

CHAPTER 409

DEGREE-GRANTING INSTITUTIONS

§10701. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Academic credit. "Academic credit" means credit hours or some equivalent measure which may be awarded and which are applicable toward a degree.

2. Degree. "Degree" means a document of achievement at the associate level or higher conferred by a post-secondary educational institution authorized to confer that degree in its home state. It includes educational, academic, literary or professional degrees. It also includes associate, baccalaureate, masters or doctoral degrees.

3. Educational institution. "Educational institution" means any person, partnership, board, association, institution or corporation which offers academic, educational, literary or professional courses or programs.

§10702. Use of name "junior college," "college" or "university"

An educational institution may use the term "junior college," "college" or "university" in connection with its operation or use any other name, title or descriptive matter which might tend to indicate that it is an institution of higher learning with the authority to confer degrees, only if it:

1. Temporary approval. Is operating under a license or certificate of temporary approval from the state board in accordance with section 10703; or

2. Legislative authorization. Has legislative authorization to confer degrees in accordance with section 10704.

§10703. Temporary approval to use the name "junior college," "college" or "university"

1. Power. The state board may grant an applicant a certificate of temporary approval, permitting use of the term "junior college," "college" or "university" in its name until the earlier of:

A. The expiration of the academic year; or

B. The applicant is authorized by the Legislature to grant degrees in accordance with section 10704.

2. Extensions and renewals. The state board may extend or renew a certificate of temporary approval for not more than 2 years.

§10704. Authority to confer degrees

An educational institution may confer degrees if it has been granted authority under an Act of the Legislature.

§10705. Courses for credit

An educational institution may offer courses or programs for academic credit only if:

1. Legislative authority. It has been authorized by the Legislature to grant degrees;

2. State board authority. It has been given temporary authority by the state board to use the name "junior college," "college" or "university;" or

3. Out-of-state institution. It is:

A. Located in another state; and

B. Authorized by the state board to offer courses for academic credit.

An educational institution may offer courses or programs for academic credit if it offers coordinated courses or programs in conformity with section 10706.

§10706. Coordinated courses

An educational institution may offer courses or programs for academic credit which are coordinated with a Maine degree-granting educational institution and which have been approved by the state board.

§10707. Applications

1. Degree-granting authority. Applications for legislative authority to grant degrees shall be made on application to the state board on forms provided by the commissioner.

2. Temporary use of name. Applications for temporary state board authority to use the name "junior college," "college" or "university" shall be made to the state board on forms provided by the commissioner.

3. Courses for academic credit. Applications by out-of-state educational institutions to offer courses for academic credit shall be made to the state board on forms provided by the commissioner.

4. Coordinated programs. Applications to offer coordinated programs shall be made to the state board on forms provided by the commissioner.

5. Exempt status. Applications for exempt status under section 10708, subsection 2, shall be made to the commissioner.

§10708. Exemptions

This chapter does not apply to educational institutions which:

1. Prior to September 18, 1981. Have specific degree-granting authority granted to them by the Legislature prior to September 18, 1981;

2. Federal reservations. Offer programs or courses which are conducted solely on a federal reservation over which the Federal Government has exclusive jurisdiction. The commissioner shall authorize exempt status under this subsection; and

3. Noncredit courses. Offer courses or programs which are not for academic credit.

§10709. Penalties

Any educational institution conferring degrees within the State or offering courses or programs within the State which carry academic credit without being authorized or approved to do so in accordance with this chapter is subject to a civil penalty of not more than \$5,000, payable to the State, to be recovered in a civil act.

§10710. Rules

The state board shall, in accordance with section 3, adopt rules necessary to carry out the purposes of this chapter.

CHAPTER 411

UNIVERSITY OF MAINE

§10901. Definitions

As used in this chapter, unless the context otherwise

indicates, the following terms have the following meanings.

1. Trustees. "Trustees" means the Trustees of the University of Maine.

2. University. "University" means the University of Maine.

§10902. Public policy on higher education

The following shall be the fundamental policies adhered to in the state's public higher educational planning:"

1. Recognition. To recognize higher education as an organized program of instruction, research and service:

A. Primarily concerned with the field of organized knowledge, related theory and associated practice;

B. Offered by a collegiate institution, not necessarily of 4 years, authorized to award academic degrees; and

C. Administered and systematically pursued on a full-time or part-time basis by persons who have completed secondary school or who demonstrate equivalent competence;

2. Principles. To support the principles that each higher educational institution in the State, public and private:

A. Shall have control over its educational program and related activities, within its board of control;

B. That its faculty shall enjoy the freedom traditionally accorded to the faculty of higher educational institutions in teaching, research and expression of opinions; and

C. That the faculty shall be consulted in the formulation of academic policies pertaining to it;

3. Cohesive system. To develop, maintain and support a structure of public higher education in the State which will assure the most cohesive system possible for planning, action and service in providing higher educational opportunities, to which the highest priority for fiscal support shall be assigned;

4. Programs. To provide in its public higher educational institutions, or through cooperative arrangements with private institutions or institutions outside the State, the programs of study, research or experimentation that its citizens may require;

5. Encourage growth. To encourage the growth and development of existing or new private higher educational institutions within the State where studies justify their continuation or establishment;

6. All citizens eligible. To recognize that all citizens shall be considered eligible for the benefits of appropriate higher education, whether they are high school graduates or the equivalent, or those seeking retraining or training for new careers;

7. Public funds. To assign continually a high priority in the allocation of public funds to the development of services, programs and institutions designed to provide opportunities for those who do not now share equitably in the advantages of higher education, because of limiting economic, social, educational and cultural factors;

8. Financial support. To support financially the programs of public higher educational institutions through appropriations, grants and loans, based on comprehensive plans and budgets, both short-term and long-term;

9. Public accountability. To expect appropriate public accountability for this support;

10. Federal funds. To encourage all institutions, public and private, to make maximum use of federal funds available for the support of higher educational programs and activities, the State to provide matching funds, where necessary, initially and on a continuing basis;

11. Cooperative undertakings. To expect and request cooperative undertakings among the higher educational institutions, public and private, and between them and the business, industrial and labor interests, to further the development of quality and quantity in educational programs and services and the advancement of the state's economy;

12. Evaluation and research. To encourage a continuing program of evaluation and research with respect to higher educational opportunities in the State through financial support and the expectation of annual reporting;

13. Master plan. To give a high priority to the provisions of the master plan for higher education through legislative action and appropriate publicity; and

14. Commuter education. To make the most effective use possible of the financial resources allocated to public higher education by maximum emphasis on commuter facilities.

§10903. State agency

The university shall be an instrumentality and agency of the State for the purpose for which it was established and for which it has been managed and maintained under Private and Special Law 1865, chapter 532, and related supplementary legislation.

§10904. Trust funds

1. Accounting. Endowment, trust and other nonexpendable funds for investment held by the trustees, which have been or may be created and established by private donors for the benefit of the university or for any purpose directly related to the activities of the university, shall be preserved in their several separate identities in the books of account of the university and administered according to the terms of the gifts.

2. Management of individual funds. For the purpose of investment only, and in order to afford to each fund the advantage of a diversification of risk wider than can be obtained by preserving the investment unity of each fund, and in the absence of any conditions or restrictions to the contrary made by the donor, the trustees may combine, pool and merge these funds with other similar funds. The trustees shall account for profits, losses and income to each individual fund in the proportion which its value bears to the total value of the merged fund as of the date of merger.

3. Valuation of individual funds. If a new fund is merged into an existing combination of funds, the proportionate shares shall be determined by calculating the assets of the existing combination of funds at the then market value, and calculating the future shares of each individual fund in proportion to its value to the whole of the new combination.

§10905. Treasurer; compensation

The trustees shall appoint a full-time treasurer of the university. The treasurer shall give bond for the faithful

performance of his duties in an amount and with such conditions and sureties as the trustees may determine. The compensation of the treasurer shall be set by the trustees.

§10906. Powers and duties of treasurer

1. Receipt and custody of moneys, expenditures, authority to contract. The treasurer shall:

A. Receive and have custody of all moneys received for the university;

B. Make all expenditures upon vouchers authenticated and approved in a manner designated by the trustees; and

C. Have no authority to contract debts and obligations, except:

(1) Loans in anticipation of assured revenues when approved by vote of the trustees; and

(2) Other loans when directed by vote of the trustees and duly and properly authorized by the Governor.

2. Report of treasurer. The treasurer shall prepare a complete report for the period ending on June 30th of each year and forward a copy of the report to the Governor, the board of trustees and the members of the Legislature.

CHAPTER 413

NEW ENGLAND HIGHER EDUCATION COMPACT

SUBCHAPTER 1

COMPACT

§11001. Purposes - Article I

The purposes of the New England Higher Education Compact shall be to provide greater educational opportunities and services through the establishment and maintenance of a coordinated educational program for the persons residing in the several states of New England parties to this compact, with the aim of furthering higher education in the fields of medicine, dentistry, veterinary medicine, public health and in professional, technical, scientific, literary and other fields.

§11002. Board of Higher Education - Article II

1. Creation. There is created and established a New England Board of Higher Education, in this chapter known as the "board," which shall be an agency of each state party to the compact.

2. Powers. The board shall be a body corporate and politic, having the powers, duties and jurisdiction enumerated and such other and additional powers as shall be conferred upon it by the concurrent act or acts of the compacting states.

3. Composition. The board shall consist of 8 resident members from each compacting state, at least 2 of whom shall be members of the Legislature, chosen in the manner and for the terms provided by law of the several states parties to this compact.

§11003. Entry into force - Article III

This compact shall become operative immediately as to those states executing it whenever any 2 or more of the States of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island and Connecticut have executed it in the form which is in accordance with the laws of the respective compacting states.

§11004. Officers; meetings; organization - Article IV

1. Officers. The board shall annually elect from its members a chairperson and vice-chairperson and shall appoint and at its pleasure remove or discharge said officers.

2. Employees. It may appoint and employ an executive secretary and may employ such stenographic, clerical, technical or legal personnel as shall be necessary and at its pleasure remove or discharge such personnel.

3. Rules. It shall adopt a seal and suitable bylaws and shall promulgate any and all rules which may be necessary for the conduct of its business.

4. Office. It may maintain an office or offices within the territory of the compacting states.

5. Meetings. It may meet at any time or place. Meetings shall be held at least once each year. A majority of the members shall constitute a quorum for the transaction of business, but no action of the board imposing any obligation on any compacting state shall be binding unless a majority of the members from the compacting state shall have voted in favor thereof. Where meetings are

planned to discuss matters relevant to problems of education affecting only certain of the compacting states, the board may vote to authorize special meetings of the board members of such states.

6. Accounts. The board shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor and the legislature of each compacting state, setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the compacting states which may be necessary to carry out the intent and purpose of this compact.

7. Credit. The board shall not pledge the credit of any compacting state without the consent of the Legislature thereof given pursuant to the constitutional processes of said state. The board may meet any of its obligations in whole or in part with funds available to it under Article VII of this compact; provided that board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article VII, the board shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the compacting states adequate to meet the same.

8. Audit. Each compacting state reserves the right to provide hereafter by law for the examination and audit of the accounts of the board.

9. Disbursements. The board shall appoint a treasurer and assistant treasurer who may be empowered to perform any and all duties of the treasurer. Fiscal disbursements of the board should be valid only when authorized by any 2 persons from among those authorized by the board to execute this authority, and when substantiated by vouchers signed and countersigned by any 2 members from among those authorized by the board to execute this authority.

10. Records. The executive secretary shall be custodian of the records of the board with authority to attest to and certify such records or copies thereof.

§11005. Powers and duties - Article V

The board may:

1. Data reports. Collect, correlate and evaluate data

in the fields of its interest under this compact; publish reports, bulletins and other documents making available the results of its research; and, in its discretion, charge fees for those reports, bulletins and documents;

2. Contractual agreements or arrangements. Enter into such contractual agreements or arrangements with any of the compacting states or agencies thereof and with educational institutions and agencies as may be required in the judgment of the board to provide adequate services and facilities in educational fields covered by this compact. It shall be the policy of the board in the negotiation of its agreements to serve increased numbers of students from the compacting states through arrangements with then existing institutions, whenever in the judgment of the board adequate service can be so secured in the New England region. Each of the compacting states shall contribute funds to carry out the contracts of the board on the basis of the number of students from such state for whom the board may contract.

Contributions shall be at the rate determined by the board in each educational field. Except in those instances where the board by specific action allocates funds available to it under Article VII, the board's authority to enter into such contracts shall be only upon appropriation of funds by the compacting states. Any contract entered into shall be in accordance with rules and regulations promulgated by the board and in accordance with the laws of the compacting states.

§11006. Appropriations - Article VI

Each state agrees that, when authorized by the legislature pursuant to the constitutional processes, it will from time to time make available to the board such funds as may be required for the expenses of the board as authorized under the terms of this compact. The contribution of each state for this purpose shall be in the proportion that its population bears to the total combined population of the states who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States, unless the board shall adopt another basis in making its recommendation for appropriation to the compacting states.

§11007. Gifts - Article VII

The board for the purposes of this compact may receive grants, devises, gifts and bequests which the board may agree to accept and administer. The board shall administer property held in accordance with special trusts, grants and

bequests, and shall also administer grants and devises of land and gifts or bequests of personal property made to the board for special uses, and shall execute said trusts, investing the proceeds thereof in notes or bonds secured by sufficient mortgages or other securities.

§11008. Severability - Article VIII

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any compacting state or of the United States the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact is held to be contrary to the constitution of any compacting state the compact shall remain in full force and effect as to all other compacting states.

§11009. Withdrawal - Article IX

This compact shall continue in force and remain binding upon a compacting state until the legislature or the governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action shall not be effective until 2 years after notice thereof has been sent by the governor of the state desiring to withdraw to the governors of all other states then parties to the compact. Such withdrawal shall not relieve the withdrawing state from its obligations accruing prior to the effective date of withdrawal. Any state so withdrawing, unless reinstated, shall cease to have any claim to or ownership of any of the property held by or vested in the board or to any of the funds of the board held under the terms of the compact. Thereafter, the withdrawing state may be reinstated by application after appropriate legislation is enacted by such state, upon approval by a majority vote of the board.

§11010. Defaults; suspension - Article X

If any compacting state shall at any time default in the performance of any of its obligations assumed or imposed in accordance with this compact, all rights and privileges and benefits conferred by this compact or agreement hereunder shall be suspended from the effective date of such default as fixed by the board. Unless such default shall be remedied within a period of 2 years following the effective date of such default, this compact may be terminated with respect to such defaulting state by affirmative vote of 3/4 of the other member states. Any such defaulting state may be reinstated by:

1. Performance. Performing all acts and obligations upon which it has heretofore defaulted; and

2. Approval. Application to and approved by a majority vote of the board.

SUBCHAPTER II

PROVISIONS RELATING TO COMPACT

§11051. Ratification

The Governor, on behalf of this State, may enter into a compact, substantially in the form provided in this chapter, with any one or more of the States of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont, that compact to be effective upon the filing of a copy thereof in the office of the Secretary of State.

§11052. Purposes

The several New England states cooperatively deem it feasible to provide needed, acceptable, efficient, educational facilities to meet the needs of New England in the fields of medicine, dentistry, veterinary medicine and other fields of technical, professional and graduate training.

§11053. Board

1. Membership. Of the 8 members who shall represent this State:

A. One shall be the current Chancellor of the University of Maine, ex officio;

B. One shall be the commissioner, ex officio;

C. Four shall be named by the Governor for 2-year terms;

D. One shall be a member of the Senate appointed by the President of the Senate; and

E. One shall be a member of the House of Representatives appointed by the Speaker of the House.

2. Expenses. All members shall receive their actual expenses incurred in the performance of their official duties.

§11054. Duties of board

The board on the part of the State shall obtain accurate accounts of all the board's receipts and disbursements and shall report to the Governor and the Commissioner of Finance and Administration annually on or before the 15th day of September, setting forth in such detail as the commissioner may require the transactions of the board for the fiscal year ending on the preceding June 30th. They shall include in such report recommendations for any legislation as may be necessary or desirable to carry out the intent and purposes of the New England Higher Education Compact among the states joining.

§11055. Effective date

When the Governor shall have executed this compact on behalf of this State, and shall have caused a verified copy thereof to be filed with the Secretary of State, and when the compact shall have been ratified by one or more of the states named in section 11051 then this compact shall become operative and effective as between this State and such other state or states. The Governor shall take such action as may be necessary to complete the exchange and filing of official documents as between this State and any other state ratifying the compact, and to take such steps as may be necessary to secure the consent of the Congress of the United States to the compact.

CHAPTER 415TUITION EQUALIZATION FUND§11201. Definition

As used in this chapter, unless the context clearly indicates otherwise, the term "eligible private institution of higher education" means an institution meeting the requirements as set forth in the United States Higher Education Act of 1965, Section 1201, as amended, 29 United States Code 1141, and the United States Higher Education Act of 1965, Section 491, as amended, 20 United States Code 1088, and the regulations and guidelines promulgated by the United States Secretary of Education pursuant to those provisions of federal law and published in the Federal Register. Also, the institution must be authorized to grant degrees in accordance with chapter 409.

§11202. Tuition equalization fund

1. Establishment. The State Tuition Equalization Fund shall be established in the department. The moneys in this fund shall be distributed, under rules adopted or amended by

the commissioner, to Maine high school graduates who are attending eligible private institutions of higher education in this State as full-time undergraduates.

2. Eligibility. To be eligible for a grant, a student shall demonstrate substantial need and have a family income, measured by taxable income for federal income tax purposes, of less than \$17,000. Individual grants shall not exceed \$1,000 for each school year.

§11203. Selection

The selection of grant recipients shall be made with the cooperation of the Higher Education Council.

CHAPTER 417

STUDENT LOANS

§11401. Purpose

The purpose of this chapter is to enable the state board to establish a student loan insurance program, meeting certain federal requirements, in order to secure loans to Maine students attending institutions of higher education, including vocational training institutions, in accordance with the direction in the Constitution of Maine, Article VIII, Part First, Section 2.

§11402. Loan insurance program established

The state board may establish a student loan insurance program to insure payment of loans to Maine students. This program shall meet 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 United States Higher Education Act of 1965 and regulations promulgated under the Act. To this end, the faith and credit of the State is pledged consistent with the terms and limitations of the Constitution of Maine, Article VIII, Part First, Section 2.

§11403. Student Loan Insurance Fund

1. Establishment. There is established a Student Loan Insurance Fund, which shall be used by the state board as a nonlapsing, revolving fund for carrying out this chapter.

2. Sum; charges and credits. The fund shall initially be in the sum of \$5,000. To this sum shall be:

A. Charged all expenses of the state board for their operations under this chapter, including interest and principal payments required by loan defaults; and

B. Credited all amounts received by the state board under this chapter.

3. Excess moneys. Moneys in the fund, not needed currently to meet the obligations of the state board as an insurer, shall be deposited with the Treasurer of State to the credit of the fund, or may be invested as provided by statute.

§11404. Additions to Student Loan Insurance Fund

1. Request of board. The state board may, in writing, request the Governor to provide additional funds to add to the Student Loan Insurance Fund to meet its obligations.

2. Transfer of funds. The Governor shall transfer to the fund sufficient moneys for the requested purpose from the State Contingent Account or from the proceeds of bonds to be issued as provided in this section.

3. Bonds. Bonds shall be issued as follows.

A. The Governor shall order the Treasurer of State to issue bonds in the amount requested, but not exceeding in the aggregate outstanding at any one time the amount set forth in the Constitution of Maine, Article VIII, Part First, Section 2.

B. Bonds shall mature serially or be made to run for such periods as the Governor may determine, but not for a term of more than 20 years.

C. The Governor shall determine the rates of interest and the terms and conditions of the bonds.

D. The bonds shall be deemed a pledge of the faith and credit of the State.

§11405. Powers and duties

Under this chapter, the state board may:

1. Rules. Adopt, amend or enforce rules to carry out the purposes of this chapter;

2. Agents. Choose a suitable agent to administer the affairs and activities required by this chapter or by appli-

cable federal provisions; and

3. Agreements. Enter into agreements with the United States Secretary of Education relating to federal, state and private programs of low-interest insured loans to students in institutions of higher education, within the United States Higher Education Act of 1965.

§11406. Loans to minors

Notwithstanding any other law, if the borrower on a loan insured under this program is a minor, an otherwise valid note or other written agreement executed by him for the purpose of the loan shall create a binding obligation.

CHAPTER 419

STUDENT INCENTIVE SCHOLARSHIP PROGRAM

§11601. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Academic year and in attendance. "Academic year" and "in attendance" means the same as the definitions of these terms contained in Section 1201 of the United States Higher Education Act of 1965, as amended, (29 United States Code 1141) and section 491 of the United States Higher Education Act of 1965, as amended, (20 United States Code 1088) and the regulations, guidelines and procedures promulgated by the secretary and published in the Federal Register pursuant to these sections of federal law.

2. Actual cost-of-attendance. "Actual cost-of-attendance" means the same as the definition contained in the Federal Basic Educational Opportunity Grant Program, Section 411 of the United States Higher Education Act of 1965, as amended, (20 United States Code, 1070a) and the regulations, guidelines and procedures promulgated by the secretary and published in the Federal Register. If the secretary does not publish regulations, guidelines and procedures, the commissioner shall adopt or amend rules to be used in determining "actual cost-of-attendance" for the purposes of the Maine Student Incentive Scholarship Program.

3. Expected family contribution. The "expected family contribution" means the amount which the family of a student may be reasonably expected to contribute toward his post-secondary education for the academic year for which the

student is seeking a state student incentive scholarship. The method of determining "expected family contribution" shall be uniformly applied to all students. It shall be established by rules of the department. In establishing the method, the department shall consider using the system as promulgated by the Secretary for the Basic Educational Opportunity Grant Program pursuant to Section 411 of the United States Higher Education Act of 1965, as amended, (20 United States Code 1070a) or methods commonly used by colleges and universities, such as those of the College Scholarship Service or American College Testing Service.

4. Institution of higher education. "Institution of higher education" means an institution of higher education located within this State, or within another state with which this State has a reciprocal agreement. The institutions shall meet the requirements of and conform to the definitions contained in Section 1201 of the United States Higher Education Act of 1965, as amended, (29 United States Code 1141) and Section 491 of the United States Higher Education Act of 1965, as amended, (20 United States Code 1088) and the regulations, guidelines and procedures promulgated by the secretary and published in the Federal Register pursuant to these sections of law.

§11602. Establishment

The commissioner shall administer a program of state student incentive scholarships.

§11603. Eligibility

The scholarships shall be given only to residents of the State who:

1. Graduated. Have graduated from an approved secondary school or matriculated at a post-secondary school prior to high school graduation, or have successfully completed a general educational development examination or its equivalent;

2. Accepted as undergraduate. Have been accepted for enrollment as undergraduates in, or are in good standing as undergraduates at, institutions of higher education according to the prescribed standards, regulations and practices of those institutions and have met the required academic standards for admission;

3. Applied for grants. Have applied for these grants according to schedules and procedures and on forms as the department may require;

4. Agreement on costs. Have agreed that costs not provided for by federal grants shall be covered by the student and the student's family in the form of self-help, such as loans and extra work, or by merit scholarships, veterans' benefits or other resources which the student has obtained by merit, previous service or similar personal efforts prior to the awarding of any scholarship under this chapter; and

5. Shown need. Have been determined by the department to be of substantial financial need according to the criteria set forth in section 11604.

The commissioner may adopt or amend rules to establish the criteria to demonstrate residency.

§11604. Determination of need

1. Method. The commissioner shall establish the need of a student for a state student incentive scholarship for an academic year for which the student applies, by determining the difference between:

A. The sum of the student's expected family contribution and the student's basic grant, if any, received under the Federal Basic Educational Opportunity Grant Program (20 United States Code 1070a) for the academic year for which the student is applying for a state student incentive scholarship. The commissioner may also consider the contributions of the student and the student's family in the form of self-help or in the form of merit scholarships, veterans' benefits or other resources which the student has obtained by merit, previous service or similar personal efforts or could reasonably be required to obtain, unless there is ample proof to the contrary that this latter requirement is impossible to fulfill; and

B. The actual cost-of-attendance at the institution of higher education at which the student has been accepted for enrollment, or at which the student is in good standing.

2. Determination. The student's need shall serve as the basis on which the commissioner determines the state student incentive scholarship to that student for an academic year.

§11605. Determination of grants

Grants to eligible students shall be determined as fol-

lows, subject to the limitations set forth in section 11604.

1. Full-time. In the case of an eligible student who is in attendance on a full-time basis, the amount of the scholarship awarded the student shall not exceed 50% of the need of that student, or \$1,500, whichever is less, for a single academic year.

2. Half-time. In the case of an eligible student who is in attendance less than fulltime, but at least halftime, the amount of the scholarship awarded to that student shall be reduced in proportion to which that student is not attending a full-time basis.

3. Minimum. A scholarship of less than \$200 a year may not be awarded to a student.

4. Less than half-time. A student who is in attendance on a less than half-time basis, as defined by the commissioner, may not be awarded a scholarship.

5. Withdrawal. If a recipient of a scholarship withdraws from an institution and if the student is entitled to a refund of tuition, fees or other charges, the institution shall pay directly to the State from that refund a sum which represents the portion of the scholarship paid to the student for the portion of the academic year that the student did not complete.

§11606. Schedule of reductions in grants

Prior to March 1st of each year, the commissioner shall evaluate the availability of state and federal funds for the scholarship program in relationship to the number of students eligible for grant assistance. If funds will be insufficient to pay scholarships under the conditions set forth in section 11605, the commissioner shall publish, no later than March 1st, a schedule of reductions in scholarships for the succeeding academic year. The schedule of reductions shall be effective for not longer than one academic year, except if renewed by republication by the commissioner prior to the following March 1st.

§11607. Length of grant; period of study

1. Length of grant. A scholarship grant shall be for a period not to exceed one academic year. A student may apply for a new grant for each year during the period required for completion of the undergraduate course of study being pursued by that student.

2. Period of study. A student may receive a scholarship during the period required for the completion of the undergraduate course of study being pursued by that student at the institution at which the student is in attendance. The period may not exceed 8 semesters or its equivalent for the full-time student and 16 semesters or 120 credit hours, whichever is completed first, for the part-time student. The period may be extended for not more than one additional academic year, if:

A. The student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over 5 academic years; or

B. The student will be unable to complete a course of study within 4 academic years because of a requirement of the institution that the student enroll in a noncredit remedial course of study. The "noncredit remedial course of study" means a course of study for which no credit is given toward an academic degree and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to that degree.

§11608. Program administration

1. Responsibility of the department. The commissioner shall administer the scholarship program, including establishing and maintaining fund accounting and control procedures as required by state law, or as necessary for the State to be eligible to receive federal assistance under the Federal State Incentive Grant Program, Title IV, Part A, Subpart 3 of the United States Higher Education Act of 1965, as amended, (20 United States Code 1070C-1, 1070C-2 and 1070C-3).

2. Guidelines and rules. The following provisions shall apply to the program.

A. The commissioner shall develop rules, procedures, schedules and forms necessary to carry out the purposes of this program, including the adoption of reciprocal agreements with other states.

B. To the maximum extent possible consistent with the need for state control of this program, the commissioner shall use or follow the guidelines, rules, regulations, procedures, forms and schedules set forth by the Secretary for the Administration of the Federal Basic Educational Opportunity Grant Program, Title IV,

Part A, Subpart 1 of the United States Higher Education Act of 1965, as amended, (20 United States Code 1070a).

3. University of Maine; grant allocation. The department may allocate up to 25% of the state student incentive scholarship grants to eligible students attending the University of Maine. The balance of funds shall be granted to eligible students attending other institutions of higher education.

CHAPTER 421

POSTGRADUATE EDUCATION

IN THE FIELD OF MEDICINE

§11801. Legislative intent

1. Admission of Maine residents to educational institutions. It is the intent of the Legislature to assure, to the greatest extent possible, the admission of qualified Maine residents to educational institutions providing programs of instruction leading to doctoral degrees in allopathic medicine, dentistry, optometry and veterinary medicine.

2. Responsibility for program. It is the intent of the Legislature, consistent with the purposes of this chapter, that the commissioner shall administer the program and develop a plan which assures, to the extent practicable, that Maine contract students, or a similar number of out-of-state medical school graduates, return to practice their profession within the State, particularly in primary care in underserved areas.

3. Advisory committee. It is the intent of the Legislature, consistent with the purposes of this chapter, to establish an Advisory Committee on Medical Education to assist the commissioner in planning and administration of the professional health program and particularly in the development of clinical education sites and continuing education, which are funded primarily by sources other than patient charges.

§11802. Definitions

For the purposes of this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Clinical education site. "Clinical education site"

includes both clinical clerkship sites and preceptorship sites.

A. "Clinical clerkship site" means an on-location teaching environment in conjunction with residency training.

B. "Preceptorship site" means a training site ranging from a one-to-one training site between a physician and medical student to a training site in a health clinic or hospital without a residency program.

2. Final determination of residency. "Final determination of residency" means the decision on residency made subject to rules of the department. Criteria for these rules shall include length of residence, secondary school attended, legal residence of parent, voting registration and place where taxes are paid.

3. Primary care. "Primary care" means the practice of general or family medicine, internal medicine, pediatrics, obstetrics and gynecology.

4. State capitation payment. "State capitation payment" means the amount agreed on between the State and the institution for the purchase of the student space.

5. State contract student. A "state contract student" means a Maine resident who is enrolled in an educational program at an educational institution for which program the State:

A. Has entered into a contractual arrangement with the institution; and

B. Expends funds under this arrangement in return for a guarantee on the part of the institution that student positions will be made available to Maine residents.

6. Underserved areas. "Underserved areas" means those geographic locations which meet the Health Maintenance Organization Act definition of medically underserved areas as described in the Federal Register, Vol. 42, number 201, October 15, 1976, or its successor.

§11803. Agreement of state contract student with the State; September 1, 1977, to June 30, 1981

1. Agreement. State contract students commencing their professional education between September 1, 1977, and June 30, 1981, shall, as a condition precedent to the com-

mencement of that education, enter into an agreement with the State under which the student shall agree:

A. To pay tuition to the institution;

B. That, on the conclusion of his professional education, including internship, residency and obligated public health service and Armed Forces' service, he shall pay the State an amount of money equal to the state capitation payment for the student position which he occupied. The commissioner may adopt or amend rules to define the conclusion of professional education; and

C. The payments shall be payable at 6% simple annual interest in not more than 10 equal annual installments.

2. Forgiveness of indebtedness. The agreement shall provide that 1/4 of the indebtedness shall be forgiven for each year in which the state contract student practices his profession within the State in primary care or other specialized areas as determined by the commissioner, with the advice of the Advisory Committee on Medical Education. For other state contract students returning to practice their profession in Maine, 1/4 of their indebtedness shall be forgiven for each of the first 2 years of practice.

§11804. Agreement for contract students after July 1, 1981

Any state contract student commencing professional education on or after July 1, 1981, shall, as a condition precedent to the commencement of the education, enter into an agreement with the State under which the student shall agree:

1. Tuition to institution. To pay tuition to the institution; and

2. Repayment to State: Upon the conclusion of professional education, including internship, residency and obligated public health service, to pay the State an amount of money equal to the state capitation payment expended by the State in purchasing the state contracted position which the student occupied.

A. This amount shall be payable at 9% simple annual interest in not more than 10 annual equal installments.

B. These installment payments shall commence upon conclusion of the state contract student's professional education under rules promulgated by the commissioner.

§11805. Positions

1. Negotiations. The commissioner shall, directly or through the New England Board of Higher Education, negotiate with educational institutions to secure positions for state contract students in the fields of allopathic medicine, dentistry, optometry and veterinary medicine.

2. Purchase of positions at medical schools; September 1, 1977, and June 30, 1981. Money to purchase positions at medical schools may be expended between September 1, 1977 and June 30, 1981 as follows.

A. The commissioner may expend appropriated money between September 1, 1977, and June 30, 1981, for the purchase of positions at accredited medical schools, for not more than:

(1) A total of 40 positions each year, divided among the University of Vermont College of Medicine, Tufts University School of Medicine, Dartmouth Medical School or other accredited medical schools, to a total of 160;

(2) A total of 10 positions each year divided among Tufts School of Dental Medicine or other accredited dental schools, to a total of 25;

(3) A total of 4 positions each year, divided among the University of Pennsylvania School of Veterinary Medicine, the New York State College of Veterinary Medicine at Cornell University, Tufts University School of Veterinary Medicine or other accredited schools of veterinary medicine, to a total of 16;

(4) A total of 2 positions each year at the New England College of Optometry, to a total of 8; and

(5) A total of 10 positions each year at the New England College of Osteopathic Medicine, to a total of 40.

B. The department shall not exceed the total number of spaces, but may allocate the number of spaces at the various institutions based on the spaces available for the academic school years, the cost of securing the student space, the number of applications and the primary care residency program needs.

3. Purchase of positions at medical schools after July

1, 1981. Money to purchase positions at medical schools may be expended after July 1, 1981 as follows:

A. The Department of Educational and Cultural Services may expend the money appropriated by the Legislature, for the purchase of positions at accredited medical schools to purchase:

(1) Up to 18 positions each year, to a total of 72 positions, at accredited schools of allopathic medicine;

(2) Up to 2 positions each year, to a total of 8 positions, at accredited schools of dentistry;

(3) Up to 2 positions each year, to a total of 8 positions, at accredited schools of veterinary medicine; and

(4) Up to one position each year, to a total of 4 positions, at accredited schools of optometry.

B. The department shall not exceed the total number of spaces identified in this subsection for students commencing their professional education on or after July 1, 1981, but may allocate the number of spaces at the various institutions based on:

(1) The spaces available for the academic school years;

(2) The cost of securing the student's space;

(3) The number of applications; and

(4) The primary care residency program needs.

§11806. Instate clinical education programs; development of a plan

1. Return to practice in Maine. The commissioner shall develop a plan which assures, to the extent practicable, that contract students, or a similar number of out-of-state medical school graduates, return to practice their profession within the State, particularly in primary care in underserved areas of the State. This plan shall be completed and presented to the Legislature and the Governor before February 1st each year.

2. Plan. This plan shall include:

A. The development of a coordinated mechanism for the administration of the compact;

B. The projected number of student spaces needed and projected costs in all professional health fields;

C. Recommendations for the future need of this program;

D. The development of sites for student clinical training;

E. The percentage of the total amount expended for the purchase of the space at the contract institutes that will return with the student undertaking clinical education in the State;

F. The development of incentives to practice in primary care and underserved areas; and

G. Recommendations for utilizing contract funds to provide assistance to Maine residency programs.

3. Coordination. To avoid duplication in the undertaking of this plan, the commissioner shall coordinate all activities with other professional health agencies and organizations.

§11807. Advisory Committee on Medical Education

1. Committee. The Advisory Committee on Medical Education shall assist the commissioner in developing the plan.

2. Members. The advisory committee shall consist of 15 members, who shall be appointed by the commissioner and subject to approval by the committee having jurisdiction over education. Membership of the advisory committee shall include representatives from those health care agencies and associations, public and private, whose activities are relevant to the objectives of the plan, as determined by the commissioner. Members shall be appointed for a 2-year term.

3. Vacancies. In the case of vacancies or resignations, appointments shall be made as for a new member to fill the vacancies until the expiration of the terms.

§11808. Nonlapsing fund

Any unexpended money appropriated by the Legislature under section 11805 shall not lapse, but shall be carried forward to the following year to be expended by the depart-

ment for the purpose of purchasing positions at medical schools. Moneys returned to the State shall be deposited in a revolving account, to be expended for the purpose of purchasing contract spaces at medical schools.

§11809. Annual review

The legislative committee having jurisdiction over appropriations and financial affairs shall annually review the program established under this chapter.

CHAPTER 423

LOANS FOR CANDIDATES FOR

PRACTICE OF OSTEOPATHIC MEDICINE

§12001. Purpose

1. Purpose. The purpose of this chapter is to provide for persons who desire to practice osteopathic medicine in this State.

2. Findings. The provision of financial assistance in securing this type of higher education is an important public purpose. Many qualified youth are deterred by financial considerations from securing this type of higher education resulting in irreparable loss to the State in maintaining the health of its residents.

§12002. State Osteopathic Loan Fund

1. Creation. The State Osteopathic Loan Fund shall be used by the commissioner as a nonlapsing, revolving fund for carrying out this chapter. The fund shall initially be in the sum of \$40,000.

2. Continuity. The program shall be a continuing one. The commissioner shall include in his biennial budget an appropriate request adequate to fund the loan program.

3. Excess. Moneys in the fund, not needed currently to meet the obligations under this chapter shall be deposited with the Treasurer of State to the credit of the fund, or may be invested in any manner provided for by statute.

§12003. Eligibility for loans

An applicant shall be eligible for a loan under this chapter when the commissioner, after consultation with the executive committee of the Maine Osteopathic Association,

finds that the applicant:

1. Residency. Has been a resident of this State for a minimum of 3 years at any time prior to application;

2. Qualifications. Is attending or will immediately attend an osteopathic college or university accredited by the American Osteopathic Association;

3. Financial resources. Will, in the absence of a loan, be deterred by financial considerations from beginning or completing a course of study at an osteopathic college or university; and

4. Return to Maine. Shows a genuine interest in returning to this State to practice osteopathic medicine.

§12004. Repayment for pre-June 30, 1981 students

1. Agreement. A student commencing professional education between September 1, 1977 and June 30, 1981, as a condition of receiving a loan, shall enter into an agreement with the State that the student, after the completion of an internship, residency, obligated public health service or Armed Forces' service, shall enter in the practice of osteopathic medicine in this State and continue in that practice for a period of one year for each \$2,000 of the loan utilized.

2. Initial interest. The loan shall be granted to the applicant with no interest or principal payments until one year after he has ended his attendance at that osteopathic college or university.

3. Breach of contract. If a recipient of a loan fails to comply with the terms of the agreement with the State for reasons other than death, the recipient shall immediately be liable to the State for all loan payments received plus interest on each payment at the rate of 6% each year compounded semiannually.

4. Repayment process. If a recipient of a loan practices osteopathic medicine in a community in this State for only a part of the total compensatory practice agreed upon, the recipient shall be liable to the State only for the amount granted under the loan plus interest at the rate of 6% each year compounded semiannually. This amount shall be reduced by a credit at the rate of \$2,000 plus interest for each year the recipient has actually practiced in the State. The loan shall be repaid within 12 years of graduation.

§12005. Agreement for osteopathic loan students after July 1, 1981

1. Agreement. Any osteopathic loan student commencing professional education on or after July 1, 1981, shall, as a condition precedent to receiving the loan, enter into an agreement with the Commissioner of Educational and Cultural Services stating that, following completion of professional education, including internship, residency and obligated public health service, the student shall pay the State an amount of money equal to the loan received.

2. Repayment. This amount shall be payable at 9% simple annual interest in not more than 10 annual equal installments. These installment payments shall commence at such time as the state contract student concludes professional education under rules promulgated by the commissioner.

CHAPTER 425NATIONAL DEFENSE EDUCATION PROGRAM§12201. Acceptance of program

The State, having accepted the provisions and benefits of the United States National Defense Education Act of 1958, Public Law 85-864, shall observe and comply with that Act.

§12202. Custodian of funds

The Treasurer of State shall be the custodian of all moneys received by the State from the Federal Government for administration, supervision and assistance to subdivisions of the State, in the expansion and improvement of educational programs. The treasurer may receive and provide for the proper custody of moneys and make disbursements on the order of the commissioner.

§12203. State agency

The state board shall be the sole state agency to administer and supervise national defense activities under the United States National Defense Education Act of 1958, Public Law 85-864. Subject to the approval of the state board, its executive officer:

1. Rules. May make rules subject to section 3;
2. Agreements. Shall enter into agreements with state and federal agencies providing educational services related

to national defense; and

3. Plans. Shall prepare, issue and amend state plans for the administration of titles of the Act requiring state plans.

§12204. Appropriation

The state board may accept federal and other funds made available for purposes of education, and may cooperate with the United States Department of Health and Human Services in carrying out the United States Defense Education Act of 1958, Public Law 85-864, and other federal programs as may concern the expansion or improvement of educational programs to meet national needs.

CHAPTER 427

NORTH AMERICAN INDIAN SCHOLARSHIPS

§12401. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. North American Indians residing in Maine. "North American Indians residing in Maine" means those persons:

A. Whose names are included on the current tribal census of either the Passamaquoddy Tribe or Penobscot Nation; or

B. Who are members of the Maliseet and Micmac Tribes and:

(1) Individually prove 1/4 Indian blood; and

(2) Have resided in this State during 5 consecutive years immediately preceding their application for a scholarship.

2. Properly accredited institutions. "Properly accredited institutions" means secondary and post-secondary institutions of learning which are:

A. Approved or accredited by the Department of Education of the state in which they are located;

B. Approved or accredited by a regional association of secondary schools and colleges; or

C. Approved for payment of tuition by the United States Veterans' Administration.

§12402. Scholarship fund

The North American Indian Scholarship Fund shall assist North American Indians residing in this State to obtain a secondary or post-secondary education, or both, from properly accredited institutions.

§12403. Committee

1. Purpose. The Indian Scholarship Committee may approve grants under this chapter.

2. Composition. The Indian Scholarship Committee shall be composed as follows:

A. The superintendent of schools of Maine Indian education;

B. One representative of the Passamaquoddy Tribe at Indian Township chosen by the tribal council;

C. One representative of the Passamaquoddy Tribe at Pleasant Point chosen by the tribal council;

D. Two representatives of the Penobscot Nation, chosen by the tribal council of the Penobscot Nation;

E. Two representatives of the Association of Aroostook Indians, Inc., chosen by the board of directors of the Association of Aroostook Indians, Inc.;

F. Two representatives of Central Maine Indian Association, Inc., one Micmac and one Maliseet, chosen by the board of directors of the Central Maine Indian Association, Inc.; and

G. A representative of the Chancellor of the University of Maine.

3. Term of service. The term shall be for one, 2 or 3 years, as determined by the appointing authority.

4. Acceptance of funds. The committee may accept funds for scholarships.

§12404. Application

A student meeting the requirements of properly accred-

ited institutions may apply for a grant, not exceeding \$3,000 a year, for the purpose of paying his tuition, room, board, books and other costs of attending that institution.

§12405. Institutional grant

An institution that enrolls a grant recipient may apply for a grant, not to exceed \$1,000 per enrolled grant recipient, to establish and conduct a program of support services for the grant recipient.

§12406. Grant limitation

If funds are available from the Federal Bureau of Indian Affairs, a grant may not be given to any Penobscot or Passamaquoddy student or to any institution when the student is enrolled in a 4-year post-secondary degree-granting program. This limitation shall not apply to Micmac or Maliseet Indians who are not eligible for Federal Bureau of Indian Affairs Scholarship assistance.

PART 6

TEACHERS

CHAPTER 501

CERTIFICATION AND REGISTRATION OF TEACHERS

§13001. Duties of the state board

1. Policy for certification. The state board shall establish policies under which the commissioner may:

A. Certify teachers and other professional personnel for service in a public school or in an approved private school;

B. Certify adult education teachers and other teaching and professional personnel in publicly supported educational programs other than those in the public schools, post-high school institutions, colleges and universities;

C. Approve the employment of teacher aides, teacher assistants or other semiprofessional personnel for service in schools;

D. Seek a revocation of a certificate in the Administrative Court; and

E. The state board may adopt rules to carry out this subsection.

2. Specific policies. The policies established by the state board shall include:

A. The interstate agreement in chapter 511; and

B. The requirement that:

(1) All applicants furnish evidence of good moral character; and

(2) Applicants for elementary school teaching furnish evidence of training in physiology and hygiene, with special reference to the effects of alcohol stimulants and narcotics upon the human system.

3. Persons holding certificates from other states. Certificates may be granted to persons holding certificates granted by authority of other states.

4. Renewal of certification; permits and special licenses. Certification permits and special licenses shall be renewed as follows.

A. The renewal of a teaching certificate shall be conditional on the completion of at least 6 hours of professional study within each period of 5 years.

B. The following teachers may be declared eligible for a 10-year term certificate, renewal of which is conditional on the presentation of evidence of professional improvement acceptable to the commissioner:

(1) Teachers qualifying for standard grade certificates, completing 18 credit hours of post-baccalaureate study, and teaching successfully for not less than 4 years; and

(2) Certified teachers who have taught successfully for not less than 25 years.

§13002. Duties of the commissioner

The commissioner shall carry out the duties assigned by the state board under the policies and rules established under section 13001.

§13003. Mandatory certification; penalty

1. Certification. A person must be certified by the commissioner under section 13002 in order to:

A. Teach in any public elementary or secondary school in the State; or

B. Teach in any private school receiving basic approval under section 2901.

2. Penalty. A person who teaches in a public school without first obtaining a teacher's certificate shall be barred from receiving pay or wages for that teaching. The person shall forfeit to the school administrative unit the amounts received as wages for this teaching.

3. Exception. This section does not apply to teachers in secondary schools approved under section 2901, subsection 2, paragraph A.

4. Rules. The state board may adopt rules to carry out this section.

§13004. List of persons certified; records confidential

1. Records. The commissioner shall keep a list of certified teachers. This list shall be a public record. The commissioner shall send copies of the list to school boards and superintendents on their request.

2. Records confidential. Transcripts, recommendations and other documents submitted in support of an application for certification and maintained in the office of the commissioner shall be confidential. They may only be made available to the following:

A. School boards and superintendents;

B. Authorized personnel of the department in fulfilling assigned duties; and

C. Individuals and their representatives who request to examine their own records.

3. Duplication costs. Individuals requesting copies of their records shall bear the costs of copying them.

4. Rules. The state board may adopt rules to carry out this section.

§13005. Registration; list furnished; fee

1. Application. A person eligible to receive or holding a state teacher's certificate, may register as a candidate for employment as a teacher in the public schools on application to the commissioner and payment of \$5. The commissioner may prescribe the manner of the application.

2. Providing information. On request, the commissioner shall furnish:

A. Information relative to registered persons to school boards or superintendents; and

B. Information relative to vacancies in positions in public schools to registered persons.

3. Responsibility of commissioner. The commissioner or a person employed under the commissioner's direction may not be held responsible for, nor be understood to vouch for, the fitness or success of a teacher who may secure a position in a public school through the operation of this section. The acceptance of this enrollment and the payment of the required fee may not be construed as a guarantee for securing employment as a teacher.

4. Fee. The fee shall entitle registration for one year.

§13006. Clerical assistance; disposition of fees

1. Rules. The commissioner may adopt or amend rules for carrying out section 13004 and for obtaining information required as to the experience, qualifications and character of persons seeking employment as teachers. A teacher may be eligible for consideration for employment only so long as the teacher complies with these rules.

2. Accounting. The commissioner shall:

A. Collect and give a receipt for all registration fees; and

B. Report and pay these fees to the Treasurer of State. These fees shall be credited to the General Fund.

3. Clerical assistants. The commissioner may employ clerical and other assistants, subject to the Personnel Law. They shall perform their duties under the general supervision of the commissioner.

CHAPTER 503
TEACHER EMPLOYMENT

§13201. Nomination and election of teachers; teacher con-
tracts

The superintendent shall nominate all teachers, subject to such regulations governing salaries and the qualifications of teachers as the school board shall make. Upon the approval of nominations, by the school board, the superintendent may employ teachers so nominated and approved for such terms as the superintendent may deem proper, subject to the approval of the school board. In case the superintendent of schools and the school committee or school directors fail to legally elect a teacher, the commissioner shall have the authority to appoint a substitute teacher who shall serve until such election is made.

After a probationary period not to exceed 2 years, subsequent contracts of duly certified teachers shall be for not less than 2 years. Unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract shall be extended automatically for one year and similarly in subsequent years. The right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties.

Just cause for dismissal or nonrenewal may be a negotiable item in accordance with the procedure set forth in Title 26, chapter 9-A, for teachers who have served beyond the probationary period.

After a probationary period of 2 years, any teacher, who receives notice in accordance with this section that his contract is not going to be renewed, may during the 15 days following such notification request a hearing with the school board. The teacher may request reasons. The hearing shall be private except by mutual consent and except that either or both parties may be represented by counsel. That hearing must be granted within 30 days of the receipt of the teacher's request.

The right to terminate a contract, after due notice of 90 days, is reserved to the school committee or school directors when changes in local conditions warrant the elimination of the teaching position for which the contract was made.

§13202. Teacher dismissal

A school board, after investigation, due notice of

hearing and hearing thereon, shall dismiss any teacher, although having the requisite certificate, who proves unfit to teach or whose services the board deems unprofitable to the school; and give to that teacher a certificate of dismissal and of the reasons for the dismissal, a copy of which the board shall retain. That dismissal shall not deprive the teacher of compensation for previous services.

CHAPTER 505

TEACHERS' SALARIES

§13401. Equal pay

In assigning salaries to teachers of public schools, discrimination may not be made between male and female teachers with the same training and experience employed in the same grade or performing the same kinds of duties.

§13402. Minimum salaries

1. Minimum salary schedule. A school administrative unit shall pay those teachers, except substitute teachers as defined by the commissioner, the following minimum salaries.

| <u>Years of teaching experience</u> | <u>Certified teachers</u> | <u>Teachers with 3 years of professional study beyond high school</u> | <u>Teachers with 4 years of study beyond high school and with a bachelor's degree</u> | <u>Teachers with an earned master's degree</u> |
|-------------------------------------|---------------------------|---|---|--|
| <u>0</u> | <u>\$3,500</u> | <u>\$4,000</u> | <u>\$5,000</u> | <u>\$5,300</u> |
| <u>1</u> | <u>3,600</u> | <u>4,200</u> | <u>5,200</u> | <u>5,500</u> |
| <u>2</u> | <u>3,700</u> | <u>4,400</u> | <u>5,400</u> | <u>5,700</u> |
| <u>3</u> | <u>3,800</u> | <u>4,600</u> | <u>5,700</u> | <u>6,100</u> |
| <u>4</u> | <u>3,900</u> | <u>4,800</u> | <u>6,100</u> | <u>6,500</u> |
| <u>5</u> | <u>4,000</u> | <u>5,000</u> | <u>6,500</u> | <u>6,900</u> |
| <u>6</u> | <u>4,100</u> | <u>5,200</u> | <u>6,700</u> | <u>7,100</u> |
| <u>7</u> | <u>4,200</u> | <u>5,400</u> | <u>6,900</u> | <u>7,300</u> |
| <u>8</u> | <u>4,300</u> | <u>5,600</u> | <u>7,100</u> | <u>7,500</u> |
| <u>9</u> | <u>4,400</u> | <u>5,800</u> | <u>7,300</u> | <u>7,700</u> |
| <u>10</u> | <u>4,500</u> | <u>6,000</u> | <u>7,500</u> | <u>8,000</u> |

2. Increase. Notwithstanding other provisions of this section, a school administrative unit may not be required to increase the salary of any teacher more than \$500 in one school year.

3. Substitute teachers. Substitute teachers with 4 years of study beyond high school and with a bachelor's degree and a teacher's certificate and substitute teachers who have retired after a minimum of 15 years of teaching shall be compensated at the rate of not less than \$20 for each day of service.

4. Annuity contract premiums. Money paid by a school administrative unit as a premium for an annuity contract for the benefit of an employee shall, for purposes of minimum salaries for teachers, be considered part of that employee's salary.

5. Reimbursement for additional professional training. When a certified teacher completes, within any 2-year period, 6 credit hours of additional professional work approved by the superintendent, the school administrative unit shall pay that teacher not less than \$100.

6. Permits or special licenses. If the employment of teachers under permit or other special license is authorized by the commissioner, the commissioner may prescribe minimum salaries and other rules for this class of teachers.

CHAPTER 507

LEAVES OF ABSENCE

§13601. Sick leave

1. Minimum annual sick leave. A school administrative unit shall grant all certified teachers, except substitute teachers as defined by the commissioner, a minimum annual sick leave of 10 school days, cumulative to a minimum of 90 school days, without loss of salary.

2. Transferrance of sick leave. A school administrative unit which employs certified teachers who have accumulated sick leave in the teacher's immediately previous position in a public school system within the State shall accept up to 20 days of that sick leave for transfer to the employing school administrative unit. This sick leave shall be credited and made effective upon achieving continuing contract status in the employing unit, provided that:

A. There shall have been no break in service in that teacher's public school employment within the State; and

B. The teacher was eligible to receive sick leave in his previous position at the time of his termination of

employment.

3. Alternate sick leave plans. The commissioner may approve another plan of sick leave which provides at least equal benefits to those of subsections 1 and 2.

4. Teachers' assistants and aides. Full-time teachers' assistants and teachers' aides shall be granted minimum annual sick leave of 10 school days.

§13602. Leave of absence as Legislators

A school administrative unit shall grant a certified teacher, except a substitute teacher as defined by the commissioner, leave of absence without pay and without forfeiture of continuing contract status and other accumulated benefits to fulfill the duties of a Legislator, provided that the teacher provides a written notice of intent to become a candidate for the Legislature at the time teacher contracts are issued.

§13603. Military leave of absence of teachers

Teachers who are members of the National Guard or other authorized state military or naval forces, and those teachers who are members of the Army, Air Force, Marines, Coast Guard or Naval Reserve may take a leave of absence from their respective duties, without net loss of income during periods of annual training not to exceed 17 calendar days in any calendar year as specified under the National Defense Act or Armed Forces Reserve Act of 1952, provided that the teachers have made every reasonable effort to perform their annual training during the period when school is not in session.

§13604. Sabbatical leave

To increase the efficiency of the public schools and to permit teachers, principals or other persons to pursue a further course of study or to travel to be better qualified by education and culture for the position they hold in the schools, school boards may grant to any teacher, principal or other person regularly employed by them a leave of absence for a period of not to exceed one year and for not more than half pay. A leave of absence may be granted only after 7 years and under those conditions and rules determined by the school board.

CHAPTER 509

MISCELLANEOUS

§13801. Residency requirement; collective bargaining

If an administrative unit engages in collective bargaining as required in Title 26, then it shall not enact any ordinance which requires employees to reside within the boundaries of the unit as a condition for employment. A collective bargaining agreement may include a residency requirement for persons not yet employed at the time the agreement becomes effective. If an administrative unit does not engage in collective bargaining as required in Title 26, then any ordinance it enacts which requires employees to reside within the boundaries of the unit shall not apply to persons already employees at the time the regulation becomes effective.

CHAPTER 511

INTERSTATE AGREEMENT ON QUALIFICATIONS OF
EDUCATIONAL PERSONNEL

SUBCHAPTER I

AGREEMENT

§13901. Purpose, findings and policy - Article I

1. Purpose. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. Findings. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of profes-

sionally prepared, and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

§13902. Definitions - Article II

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. Accept. "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

2. Designated state official. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

3. Educational personnel. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

4. Originating state. "Originating state" means a state, and the subdivision thereof, if any, whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

5. Receiving state. "Receiving state" means a state, and the subdivisions thereof, which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

6. State. "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

§13903. Interstate educational personnel contracts - Article III

1. Contracts. The designed state official of a party state may make one or more contracts on behalf of that state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the

period of its duration shall be applicable to and binding on the state whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this Article only with states in which the official finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in that official's own state.

2. Provisions. Any such contract shall provide for:

A. Its duration;

B. The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state;

C. Such waivers, substitutions and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards;

D. Any other necessary matters.

3. Term. No contract made pursuant to this agreement shall be for a term longer than 5 years but any such contract may be renewed for like or lesser periods.

4. Acceptance. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. Revocation or suspension. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. Review. A contract committee composed of the des-

ignated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

§13904. Accepted and approved programs - Article IV

1. Training requirements. To the extent that contracts made pursuant to this agreement deal with the academic or other educational training requirements for the proper qualification of educational personnel, the principles set forth in this Article shall govern.

2. Effect of approval. The approval, by the appropriate state or local authorities pursuant to the laws of a sending state, of a program of educational training shall have such effect on the qualification of educational personnel within that state as its laws provide.

3. Acceptance. Acceptance of a program of educational preparation or training for purposes of this agreement shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

§13905. Interstate cooperation - Article V

The party states agree that:

1. Multi-lateral contracts. They will, so far as practicable, prefer the making of multi-lateral contracts pursuant to Article III of this agreement.

2. Cooperation. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations and associations interested in certification and other elements of educational personnel qualification.

§13906. Agreement evaluation - Article VI

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

§13907. -other arrangements - Article VII

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party

state or states to facilitate the interchange of educational personnel.

§13908. Effect and withdrawal - Article VIII

1. Effective. This agreement shall become effective when enacted into law by 2 states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

2. Withdrawal. Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. Obligations. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

§13909. Construction and severability - Article IX

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the Constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the Constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

SUBCHAPTER II

PROVISIONS RELATING TO COMPACT

§13951. Designated state official

The commissioner shall be the "designated state official" for this State and may enter into contracts pursuant to Article III of the agreement only with the approval of the specific text thereof by the state board.

§13952. True copies files

True copies of all contracts made on behalf of this State pursuant to the agreement shall be kept on file in the office of the Commissioner of Educational and Cultural Services and in the office of the Secretary of State. The Commissioner of Educational and Cultural Services shall publish all such contracts in convenient form.

PART 7

SCHOOL FINANCE

CHAPTER 601

GENERAL PROVISIONS

§15001. Definitions

As used in this Title and Title 20, unless the context indicates otherwise, the following terms have the following meanings.

1. Aggregate attendance. "Aggregate attendance" means the total number of days of attendance for one school year in elementary and secondary schools of each regularly enrolled pupil resident of the municipality.

2. Membership. "Membership" means active participation in the program of a school from the date of enrollment to the time the student withdraws or is absent from the school for 10 consecutive days for reasons other than illness.

3. Teaching positions. "Teaching positions" means positions in elementary and secondary schools filled by classroom teachers, assistant classroom teachers, school principals, school nurses, supervisors, assistants to supervisors and teachers of special subjects, except for a position used as a basis for payment of state aid for vocational education, or as a position filled by a person devoting less than half of the school day to the duties of that position.

A. In a secondary school, the number of teaching positions for each municipality shall be determined as follows:

| | | | |
|--|---|--|--|
| <u>number of each municipality's secondary school teaching positions</u> | = | <u>aggregate attendance of resident secondary school in the municipality</u> | <u>number of teaching positions in the schools</u> |
| | | <u>aggregate attendance of all secondary school pupils</u> | |

B. If a teaching position is maintained for only part of a school year, it shall be counted as follows:

$$\begin{array}{r}
 \text{teaching position} \\
 \text{count}
 \end{array}
 =
 \frac{\text{number of weeks the} \\
 \text{position is maintained}}{\text{total number of weeks} \\
 \text{the schools in the town} \\
 \text{were maintained}}$$

4. Pupil. "Pupil" means elementary or secondary school student.

§15002. Permanent school fund

1. Definition. As used in this section unless the context indicates otherwise, the following terms have the following meanings.

A. School lands are lands which were set aside for school purposes in unincorporated areas by the Commonwealth of Massachusetts in 1788 and subsequently addressed by the Laws of Maine, 1831, Public Laws chapter 492.

B. Permanent school fund:

(1) Shall be the moneys derived from the sale, lease or other use of school lands; and

(2) May include other moneys appropriated or given to a permanent school fund for school purposes.

2. Trustee of fund. The lands or funds shall be:

A. Managed by a board of trustees in a town incorporated since 1788. The board shall be composed of the selectmen, treasurer and clerk of the town; or

B. Managed by a land agent appointed by the State.

The Treasurer of State shall keep a separate account of all moneys paid into the State Treasury and shall invest the money in securities which are legal investments for savings banks under Title 9.

3. Use of funds. Funds shall be used as follows.

A. The interest from the school fund shall be exclusively used for school purposes.

B. The commissioner may use the interest from the funds under state control for the purpose of surveying school systems and developing school plans. The allocations shall not exceed 1/2 the cost of the surveys or plans.

§15003. School fiscal year

Notwithstanding any statute or charter provision to the contrary, a school administrative unit shall annually adopt a school budget for a period beginning on July 1st and ending on June 30th.

§15004. Unexpended balances

The unexpended balance of all moneys raised by a school administrative unit, received: From the State for general-purpose aid or for other educational programs; from the Federal Government directly or from the Federal Government through the State; from tuition payments made by other units, the State, or by individuals; and other receipts for school purposes shall be carried forward and credited to the unit for educational programs for the ensuing year.

§15005. Apportionments

1. Apportionments. Apportionments to school administrative units and private schools, unless specifically directed by statute, shall be made annually commencing in July in the following manner. An amount not to exceed 1/12 of the subsidy shall be paid each month no later than the last day of the month. Any balance shall be paid in the last month of the annual period.

2. Vocational centers. Payments may be made to vocational centers at the times and in the amounts as the commissioner may authorize.

3. Return required. An apportionment provided in this chapter, chapters 109, 205, 505 and 605, and section 13601, and Title 20, section 3457, may not be paid to a school administrative unit by the Treasurer of State until returns required by law have been filed with the commissioner.

4. Failure to file return. When the information required by the chapters and sections listed in subsection 3 is not available because of the failure of the school administrative unit, through its officers, to make the returns required by law, or because of the loss or destruction of the school records of the unit, the commissioner may use a basis for apportionment numbers on which the apportionment

for the unit was made for the preceding year less 10%.

CHAPTER 603

FEDERAL AID

§15301. State acceptance of federal constructions aid laws

The State may accept an Act of Congress providing for financial assistance to states for the construction of school facilities or other similar purposes. If accepted, the State shall comply with the provisions of the Act of Congress, including regulations published by the United States Department of Education under the Act which have the force of law when published in the Federal Register.

§15302. State board as state agency

The state board shall be the sole agency for administering funds allotted under a federal act providing for financial assistance in the operation and constructions of school facilities, including higher educational facilities. It may certify to the United States Department of Education information necessary to entitle the State to receive the benefits of the Act. The state board may elect that a portion of a federal allotment be in the form of the commitment by the Federal Government to make payments of interest and principal on debts of local agencies for the construction of school facilities or other similar purpose.

§15303. Treasurer of State as custodian

The Treasurer of State shall be custodian for moneys received by the State from appropriations allotted under the authority of a federal act providing for financial assistance for constructing school facilities or other similar purpose. The Treasurer of State may receive and provide for the proper custody of these funds and make disbursements from them on the order of the state board, its executive officer or other legal authority.

§15304. Appropriations authorized

Where federal law requires matching by state funds, the state board may estimate the appropriations necessary to comply with the requirements of the federal law and include those estimates in the budget request of the department for appropriations to be made by the Legislature.

1. .No obligation. Nothing in this chapter may be construed as obligating the State to make these appropriations

if the Legislature, in its judgment, shall deem it in the best interest of the State not to make such appropriations and to waive any allotments of federal funds the allotment of which is contingent upon state appropriations.

2. Local funds. To the maximum extent possible under a federal act, school construction assistance presently authorized and paid under Title 20, section 3457 shall be considered as state funds used to match federal funds.

CHAPTER 605

THE SCHOOL FINANCE ACT

§15501. Short title

This chapter may be cited as the "School Finance Act."

§15502. Intent

1. Contributions from General Fund. It is the intent of the Legislature to provide at least 50% of the cost of the basic education allocation from General Fund revenue sources or a percentage no less than that provided in the year prior to the year of allocation, whichever is greater.

2. Amount of basic education allocation. It is the intent of the Legislature that the basic education allocation for elementary and secondary operating costs, as annually established by the Legislature, shall be an amount sufficient to meet the level of the costs in the year prior to the year of allocation.

3. Transportation costs for nonprofit private schools. It is the intent of the Legislature to reduce the transportation costs incurred on behalf of the nonprofit private schools in this State by reducing those costs to the extent and in the manner permitted by section 15510, subsection 6.

§15503. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Actual education costs. "Actual education costs" means the state and local expenditures during the base year for the programs and adjustments specified in section 15504.

2. Average elementary per pupil operating costs. "Average elementary per pupil operating costs" means the costs computed by dividing elementary operating costs for

the base year by the average number of resident elementary pupils on October 1st and April 1st in the base year.

Special education students for whom tuition is paid in programs approved by the commissioner shall not be counted nor otherwise included in determining the average elementary per pupil operating costs.

3. Average secondary per pupil operating costs. "Average secondary per pupil operating costs" means the costs computed by dividing secondary operating costs for the base year by the average number of resident secondary pupils on October 1st and April 1st in the base year.

A. Special education students for whom tuition is paid in programs approved by the commissioner shall not be counted nor otherwise included in determining the average secondary per pupil operating costs.

B. A student graduating from grade 12 during the base year prior to April 1st shall be counted as though he were in attendance on April 1st of that year.

4. Base year. "Base year" means the 2nd year prior to the year of allocation of funds.

5. Basic education allocation. "Basic education allocation" means the total amount of the state-local allocation for the following programs:

A. Elementary operating costs;

B. Secondary operating costs;

C. Special education programs operated by the school administrative unit;

D. Special education tuition and board, excluding medical costs, for pupils placed by the school administrative unit;

E. Vocational education;

F. Transportation; and

G. Debt service.

6. Basic education appropriation. "Basic education appropriation" means the amount appropriated from General Fund revenue sources for all public education programs established by the Legislature under section 15507.

7. Basic elementary per pupil operating rate. "Basic elementary per pupil operating rate" means the rate established by the Legislature in section 15507, subsection 1.

8. Basic secondary per pupil operating rate. "Basic secondary per pupil operating rate" means the rate established by the Legislature in section 15507, subsection 2.

9. Debt service costs. "Debt service costs," for subsidy purposes, includes:

A. Principal and interest costs for approved major capital projects;

B. The portion of the tuition costs applicable to the insured value factor computed under section 5806; and

C. Lease costs for school buildings when the leases have been approved by the commissioner.

10. Elementary grades. "Elementary grades" includes a childhood educational program, as defined by section 5201, through grade 8.

11. Institutional resident. "Institutional resident" means a person between the ages of 5 and 20 who is attending a public school of the school administrative unit and who is committed or otherwise legally admitted to, and residing at, a state-operated institution. It shall not include students attending private facilities, regardless of the means of placement.

12. Local allocation. "Local allocation" means a school administrative unit's portion of the state-local allocation.

13. Major capital costs. "Major capital costs" means costs relating to school construction projects as defined in section 15901.

14. Minor capital costs. "Minor capital costs" means costs relating to maintenance of plant and minor remodeling and site development not in conjunction with a construction project.

A. Minor capital costs shall not include construction of new buildings or the purchase of land.

B. Funds expended to repay funds borrowed for maintenance of plant and minor remodeling shall be considered minor capital costs in the year which these funds are

repaid.

15. Municipality. "Municipality" includes cities, towns and organized plantations.

16. Operating costs. Except as listed in this subsection, "operating costs" includes all costs minus applicable tuition receipts. It includes minor capital costs. The following costs shall not be included as "operating costs:"

A. Transportation costs;

B. Community service costs;

C. Major capital costs;

D. Debt service costs;

E. Expenditures from all federal revenue sources except for amounts received under Public Law 874;

F. Special education costs in subsection 19;

G. Vocational education costs in subsection 24; and

H. Costs of maintaining:

(1) The Governor Baxter State School for the Deaf;

(2) The Maine Youth Center; and

(3) Schools in the unorganized territories as defined in section 3201.

17. State allocation percentage. "State allocation percentage," for all programs contained in the basic education allocation, means the rate computed by dividing the state allocation by the state-local allocation, expressed as a percentage.

18. Secondary grades. "Secondary grades" means grades 9 through 12.

19. Special education costs. "Special education costs," for subsidy purposes, includes:

A. The costs of certified professionals, assistants and aides or persons contracted to perform a special education service;

B. The costs of tuition and board to other schools for programs which have been approved by the commissioner; and

C. The cost of programs for gifted and talented students which have been approved by the commissioner.

20. State allocation. "State allocation" means the amount allocated from General Fund revenue sources to fund the state's portion of the state-local allocation.

21. State-local allocation. "State-local allocation" means the total amount allocated to a school administrative unit during the year of allocation for the programs and adjustments computed in sections 15508 and 15509. A state-local allocation shall include a school administrative unit's share of vocational region debt service, if any.

22. State-operated institution. "State-operated institution" means any residential facility or institution which is operated by the Department of Mental Health and Mental Retardation.

23. Subsidy index. "Subsidy index" means the equivalent of a mill rate which, if applied to the state valuation of all municipalities and as limited by section 15511, subsection 1, paragraph C, would raise not more than 50% of the basic education allocation.

This index may not be levied but shall be used for the purpose of computed allocations.

24. Vocational education costs. "Vocational education costs," for subsidy purposes, means all costs incurred by the vocational regions, centers or satellites, in providing approved secondary school vocational education programs as defined in section 8305, subsection 3.

25. Year. "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year.

\$15504. Notification of actual education costs; other information; mandatory reports; audit adjustments

1. Notification; items. Prior to December 1st of each year, the commissioner shall notify the Legislature and the Bureau of the Budget of actual education costs. This notification shall include the following items:

A. Elementary operating costs;

B. Secondary operating costs;

C. Special education costs for programs operated by school administrative units;

D. Special education tuition and board, excluding medical costs, defined as follows:

(1) Tuition and board for pupils placed by school administrative units;

(2) Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner;

(3) Special education tuition and other tuition for institutional residents of state-operated institutions attending programs in school administrative units in accordance with rules adopted or amended by the commissioner; and

(4) Adjustment under section 15509, subsection 6;

E. Vocational education costs;

F. Transportation costs;

G. Debt service costs;

H. Costs of unusual enrollment adjustments;

I. Costs of geographic isolation adjustments;

J. Costs of adjustments for small school administrative units;

K. Costs of reimbursement for private school services;

L. Audit adjustments;

M. Local and state funds raised under section 15511, subsection 3;

N. Local funds raised under section 15512; and

O. Cost of state expenditures for teachers' retirement benefits.

2. Additional information. The commissioner shall provide additional information requested by the Legislature.

3. Required reports; subsidy payments withheld. A school administrative unit shall provide the commissioner with information the commissioner requests to carry out the purposes of this chapter, according to time schedules which the commissioner shall establish.

The commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed within specified time schedules.

4. Audit adjustments. The commissioner may correct errors revealed by audit in a school administrative unit when compiling actual education costs.

§15505. Commissioner's recommendation for funding levels; computation; guidelines

1. Annual certification. Prior to December 15th of each year, the commissioner, with the approval of the state board, shall certify to the Bureau of the Budget the funding levels the commissioner recommends for section 15504, subsection 1, paragraphs A to L, and for the state's maximum obligation under section 15511, subsection 3.

2. Funding level computations. The following are funding level computations.

A. The requested funding levels of section 15504, subsection 1, paragraph C; paragraph D, subparagraph (1) and paragraphs E and K; transportation operating costs under paragraph F; and the insured value factor under paragraph G shall be the actual costs for the base year.

B. The requested funding levels of section 15504, subsection 1, paragraph D, subparagraphs (2) and (3), shall be computed by estimating those costs in the year of allocation of funds.

C. The requested funding level for the purchase of buses under section 15504, subsection 1, paragraph F, shall be the level of purchases approved by the commissioner for the year prior to the year of allocation.

D. The requested funding level of principal and interest payments under section 15504, subsection 1, paragraph G, shall be computed by adding both known obligations and the estimate of anticipated principal and interest costs for the year of allocation of funds.

E. The requested funding level for leases under

section 15504, subsection 1, paragraph G, shall be the level of leases approved by the commissioner for the year prior to the year of allocation.

3. Estimate guidelines for elementary and secondary operating costs. The recommendation for elementary and secondary operating costs shall reflect the commissioner's best estimate as to changes in pupil enrollment, economic factors, adjustments based on actual changes in education costs and any other considerations which effect a change in the costs of education. The commissioner shall be ever conscious of the need for prudent restraint in educational financing.

§15506. Governor's recommendation for funding levels

The Bureau of the Budget shall annually certify to the Legislature the funding levels which the Governor recommends for section 15504, subsection 1, paragraphs A to K and the state's maximum obligation under section 15511, subsection 3. The Governor's recommendations shall be transmitted to the Legislature within the time schedule set by Title 5, section 1666.

§15507. Actions by the Legislature

The Legislature shall annually, prior to May 1st, enact legislation which shall:

1. Basic elementary per pupil operating rate. Establish the basic elementary per pupil operating rate;

2. Basic secondary per pupil operating rate. Establish the basic secondary per pupil operation rate;

3. Basic education allocation. Establish the basic education allocation;

4. Subsidy index. Establish a subsidy index for the year of allocation;

5. Appropriation for basic education allocation. Appropriate the necessary funds for the state's share of the basic education allocation as defined in section 15503 and computed in sections 15508 and 15509, subsections 1 and 3;

6. Appropriation for state share of local leeway. Appropriate the necessary funds to meet the maximum state obligation under section 15511, subsection 3;

7. Appropriation for unusual enrollment. Appropriate

the necessary funds for the contingent account for unusual enrollment adjustments established by section 15509, subsection 4;

8. Appropriation for geographic isolation. Appropriate the necessary funds for adjustments due to geographic isolation as determined by section 15509, subsection 2;

9. Appropriation for small administrative units. Appropriate the necessary funds for adjustments to small school administrative units which qualify in accordance with section 15509, subsection 8;

10. Appropriation for audit adjustments. Appropriate the necessary funds for audit adjustments under section 15509, subsection 7;

11. Appropriation for private school student services. Appropriate the necessary funds for reimbursement for private school student services under section 15510, subsection 6; and

12. Appropriation for pupils placed directly by the State for institutional residents. Appropriate the necessary funds for:

A. Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner; and

B. Special educational tuition and other tuition for institutional residents of state-operated institutions attending programs in school administrative units in accordance with rules adopted or amended by the commissioner.

§15508. Computation of the state-local allocation prior to adjustments

The commissioner shall compute the state-local allocation for each school administrative unit prior to adjustments under section 15509, as follows:

1. Elementary educational allocation. The elementary educational allocation shall be determined by multiplying the average number of resident elementary pupils in the unit on April 1st and October 1st of the calendar year immediately prior to the year of allocation, excluding special educational tuition pupils, by the basic elementary per pupil operating rate, as established in section 15507.

2. Secondary educational allocation. The secondary educational allocation shall be determined by multiplying the average number of resident secondary pupils in the school administrative unit on April 1st and October 1st of the calendar year immediately prior to the year of allocation, excluding special educational tuition pupils, by the basic secondary per pupil operating rate as established in section 15507. Pupils enrolled in programs for school dropouts and truants shall be counted in the manner provided in section 5104 and pupils enrolled in adult educational programs eligible for state subsidies shall be counted in the manner provided in section 8605.

3. Basis of state-local allocation for special education, vocational education, transportation and debt service; legislative changes; transportation costs. The following are provisions for the basis of state-local allocation for special education, vocational education, transportation and debt service, legislative changes and transportation costs.

A. A school administrative unit's state-local allocation for each of the items identified in subsections 4 to 7, except as otherwise specified, shall be 100% of actual expenditures during the base year as is contained in the commissioner's recommendation of educational costs.

B. If the Legislature increases or decreases the commissioner's recommendation for an item, the unit allocation shall be increased or decreased by the same percentage.

C. If the Legislature appropriates for the transportation of pupils an amount which differs from the commissioner's recommendation, the percentage of increase or decrease in the amount shall apply only to the operating cost and not to the purchase of buses.

4. Special educational allocation; state wards. The following provisions apply to special educational allocation and state wards.

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

B. Special educational 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.

5. Vocational educational allocation; billing authority; appeal to commissioner; payment of state subsidy. The following provisions apply to vocational educational allocation, billing authority, appeals to commissioner and payment of state subsidy.

A. The vocational educational allocation shall be the expenditures for vocational educational programs serving the school administrative unit.

B. The vocational center or region may bill other school administrative units as follows.

(1) A vocational center may bill its member units for any legislatively approved reduction in vocational educational subsidies in proportion to the number of students served on October 1st and April 1st of the school year immediately prior to the year of allocation. A vocational region may bill vocational centers for students who are sent to the region for vocational educational programs in the same manner.

(2) If a bill is not paid within 30 days after submission, the vocational center or region may appeal to the commissioner under section 5810.

6. Transportation allocation; bus purchases. The following provisions apply to transportation allocation and bus purchases.

A. The transportation allocation shall be the unit's expenditures for transportation operating costs.

B. Reimbursement for expenditures for bus purchases shall be limited to the total of expenditures for purchases approved by the commissioner and made during the year prior to the year of allocation.

7. Debt service allocation; reimbursement for major capital projects; reimbursement for lease costs; vocational region debt service. The following provisions apply to debt service allocation, reimbursement for major capital projects, reimbursement for lease costs and vocational region debt service.

A. Debt service allocation shall be limited to lease

expenditures approved by the commissioner, insured value factor expenditures and principal and interest costs for major capital projects.

B. Principal interest costs for major capital projects shall be reimbursed in the year of allocation.

C. Reimbursement for lease costs shall be limited to total lease expenditures approved by the commissioner and made during the year prior to the year of allocation.

D. State allocation for vocational region debt service shall be computed as follows.

(1) A member school administrative units' prorated share of the region's debt service payment shall be determined by the region's cost-sharing agreement and shall be included in the member unit's state-local allocation.

(2) The state allocation percentage, as defined in section 15503, subsection 17, for a member school administrative unit shall be multiplied times the unit's prorated share of the region's debt service payments to establish the state allocation for vocational region debt service for that member unit.

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

§15509. Adjustments included in state-local allocation

Adjustments to the state-local allocation shall be made as allowed in subsections 1 to 8. A school administrative unit may not be eligible for the adjustments identified in subsections 2, 4, 5, 6 and 8 unless it has raised the maximum amount of its local allocation.

1. Equalizing adjustments; below and above average per pupil operating costs. The following provisions apply to equalizing adjustments, and below and above average per pupil operating costs.

A. If a school administrative unit's average elementary or secondary per pupil operating cost in the base year is less than the basic elementary or secondary per pupil operating rate, the unit's per pupil state-local

allocation for elementary or secondary pupils respectively shall be limited to an amount which equals:

(1) The unit's average elementary or secondary per pupil operating costs for the base year; plus

(2) An amount equivalent to 1/3 of the difference between:

(a) The unit's per pupil elementary or secondary cost for the base year, as adjusted; and

(b) The basic elementary or secondary per pupil operating rate respectively.

B. If a school administrative unit's average elementary or secondary per pupil operating cost for the base year is above the basic elementary or secondary per pupil operating rate, the per pupil allocation for elementary or secondary pupils respectively shall be the basic elementary or secondary per pupil operating rate. If the 1973-74 expended local average elementary or secondary per pupil operating cost exceeds the average elementary or secondary per pupil operating rate, the per pupil allocation for elementary or secondary pupils shall be increased by 1/2 the lesser amount of the following differences:

(1) The difference between the basic elementary or secondary per pupil operating rate and the local average elementary or secondary per pupil operating cost; or

(2) The difference between the basic elementary and secondary per pupil operating rate and the local average elementary or secondary per pupil operating cost expended during the 1973-74 school year.

2. Geographic isolation; determination; adjustment limitation. The following provisions apply to geographic isolation, determination and adjustment limitation.

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

B. If the school administrative unit is declared to be geographically isolated, the commissioner shall adjust the elementary and secondary per pupil allocation to that unit to meet the educational needs of that unit.

C. The geographic isolation adjustment shall not exceed the amounts expended by the school administrative unit in the base year which were in excess of the basic elementary and secondary per pupil operating rates in the year of allocation.

3. Pupils on federal land; adjustment; limitation. The following provisions apply to pupils on federal land, adjustment and limitation.

A. A school administrative unit which enrolls eligible pupils under the United States Laws of September 30, 1950, Chapter 1124, United States Code, Section 236, et seq., Public Law 81-874, shall count those pupils as resident pupils for purposes of this chapter.

B. The state-local allocation to that school administrative unit shall be adjusted by subtracting the receipts under the United States Laws of September 30, 1950, Chapter 1124, United States Code, Section 236, et seq., Public Law 81-874, in the same proportion that total local revenues under the state equalization program are to total local revenues for education in that unit.

C. The amount subtracted under paragraph B may not exceed 90% of the school administrative unit's entitlement for the year prior to the year of allocation or the base year, whichever is less. In adjusting the allocation, the amounts subtracted for pupils residing on land under control of the Federal Government or a federal agency, or on a federal military reservation shall not exceed 1/2 of the national average expenditure per pupil, as computed by the Federal Government, multiplied by the number of the students in the school administrative unit.

4. Unusual enrollment, computation of adjustment; proration; local authorization; contingent account. The following provisions apply to unusual enrollment, computation of adjustment, proration, local authorization and contingent accounts.

A. A school administrative unit may qualify for an unusual enrollment adjustment to the state and local allocation when 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. The number of pupils in excess of a 3% increase shall be multiplied by the appropriate per pupil rate as established in this section to determine the allowable adjustment.

B. All school administrative units shall be prorated if necessary to remain within the sum appropriated for that adjustment.

C. A school administrative unit may expend any funds received through this adjustment without calling for a special meeting of the local legislative body.

5. Decrease in enrollment; guaranteed allocation. A school administrative unit which experiences a decrease in enrollment in either elementary or secondary educational programs of 33% or greater between April 1st of the base year and October 1st of the year prior to the year of allocation shall have its state-local allocation based on the basic elementary or secondary per pupil operating rate.

6. Special educational adjustment; guidelines; limits; local authorization. The following provisions apply to special educational adjustment, guidelines, limits and location authorization.

A. If a school administrative unit petitions the commissioner and demonstrates that the unexpected costs of placement for educational purposes of a student in a special educational program will cause a budgetary hardship, the commissioner may adjust the unit's allocation to include an amount not to exceed the educational cost of the placement under rules adopted or amended by the commissioner.

B. The funds for the adjustment shall be limited to the amount appropriated by the Legislature for that purpose.

C. School boards may expend the funds allocated without seeking approval from their legislative bodies.

7. Audit adjustments; limits. The following provisions apply to audit adjustments and limits.

A. If errors are revealed by audit and corrected by the commissioner under section 15504, subsection 4, the school administrative unit's state-local allocation shall be adjusted to include corrections.

B. The funds for these adjustments shall be limited to the amount appropriated by the Legislature under section 15507, subsection 10.

8. Small unit subsidy adjustments; legislative intent. A school administrative unit may qualify for one of the following small unit subsidy adjustments.

A. If a school administrative unit is operating an elementary school with 25 pupils or less in kindergarten through grade 8 during the school year immediately prior to the year of allocation, it shall receive a minimum allocation for operating costs equal to $\frac{5}{3}$ of the state average elementary teachers' salary in the school year immediately prior to the year of allocation as determined by the commissioner.

B. If a school administrative unit is not operating an elementary school or a secondary school and has 25 pupils or less in kindergarten through grade 8 during the school year immediately prior to the year of allocation, it shall receive a minimum allocation computed by multiplying the elementary or secondary pupil enrollment on October 1st in the year of allocation by the state average elementary or secondary adjusted per pupil operating rate or the actual cost of tuition payment in the year of allocation, whichever is less.

C. The small unit subsidy adjustment shall guarantee a minimum subsidy payment for operating costs to those school administrative units which qualify and it shall be made only after the adjustments in subsections 1 to 7 have been made.

§15510. Schedules of payment of state allocation; appeals; limitation of use

1. Schedules of payment of state allocation. The commissioner shall authorize state allocation payments to the school administrative units to be made in accordance with time schedules set forth in section 15005, sections 15901 to 15910 and Title 20, sections 3457 to 3460.

2. Notification of allocation; commissioner's duty; superintendent's duty. The following provisions apply to notification of allocation, commissioner's duty and superintendent's duty.

A. The commissioner shall annually prior to May 21st notify each school board of the amount allocated to the school administrative unit.

- B. Each superintendent shall report to the municipal officers whenever the school administrative unit is notified of the allocation or a change is made in the allocation resulting from a December or June adjustment.
3. Payments of state allocation to unit's treasurer; basis. State allocation payments shall be made directly to the treasurer of each school administrative unit. They shall be based on audited financial reports submitted by school administrative units.
4. Computation of state allocation payments to community school districts. If a community school district is organized to educate some, but not all, of the grades from kindergarten through grade 12, the commissioner shall compute state allocation payments for the member municipalities as follows:
- A. Compute the average number of resident pupils in the municipality on April 1st and October 1st of the calendar year prior to the year of allocation;
- B. Compute the average number of resident pupils during this period who were not educated by the community school district;
- C. Multiply the ratio of paragraph B divided by paragraph A times the state valuation for the municipality as determined by the State Tax Assessor. The result shall be the part of the member municipality's valuation which the department shall use to compute state aid for the municipality; and
- D. The sum of the remaining valuation of each member municipality shall be the total state valuation which the department shall use to compute state aid for the community school district.
5. State allocation payments to vocational regions. State allocations for debt service on bonds issued by the cooperative boards of vocational regions shall be paid directly to the treasurers of the boards, notwithstanding any other statute.
6. Nonpublic school service reimbursements. The following provisions apply to nonpublic school service reimbursements.
- A. Notwithstanding any other provision of this chapter, if students attend nonpublic schools that are not

operated for profit in whole or in part, the commissioner shall reimburse 50% of the expenditures of the base year for providing services to these nonpublic school students as authorized by Title 30, section 5104, subsections 5 to 8. Municipal officers shall report these expenditures to the commissioner on forms provided by him.

B. The total amount reimbursed under this section shall not exceed the level of funds appropriated for this item under section 15507, subsection 11.

C. Municipal officers shall submit documentation demonstrating the amount of money appropriated for nonpublic school student services for the base year.

D. The commissioner may adopt or amend rules to assure that:

(1) All sums reimbursed were utilized and actually expended for programs authorized pursuant to Title 30, section 5104, subsections 5 to 8;

(2) No municipality receives reimbursement for a student who attends school at public expense; and

(3) All services provided to nonpublic school students that require professional personnel are provided by public employees.

7. Direct special educational payments. The commissioner may make tuition and board payments directly to private special educational boarding schools which receive state wards or other pupils placed directly by the State.

8. Education of institutional residents. The commissioner may pay tuition to school administrative units for institutional residents within the limits of the appropriation made under section 15507, subsection 12.

9. Appeals. A school board may appeal the computation of state allocation for the school administrative unit to the state board in writing within 30 days of the date of notification of the computed amount. The state board shall review the appeal and make an adjustment if, in its judgment, an adjustment is justified. The state board's decision shall be final as to facts supported by the record of the appeal.

10. School purpose expense requirement. Notwithstanding any other public or private statute, money allocated for

school purposes shall be expended only for school purposes.

11. Balance of allocations. Notwithstanding any other public or private statute, balances of allocations at the end of a school administrative unit's fiscal year shall be carried forward to meet the next year's school needs.

§15511. Local allocation and appropriations

1. Local allocation computation; recorded vote; limit. The following provisions apply to local allocation computation, recorded vote and limitation.

A. The commissioner shall compute the local allocation using the subsidy index established under section 15507, subsection 4, and the state valuation of the municipalities within each school administrative unit.

B. The legislative body of each school administrative unit may vote to raise and appropriate an amount up to the local allocation. This action shall be taken by a recorded vote.

C. The commissioner's computation of the local allocation for each school administrative unit shall not exceed the state-local allocation as adjusted by section 15509 for that unit.

(1) Beginning July 1, 1981, the commissioner's computation of the local allocation for each single school administrative unit or for each member municipality within a school administrative district or community school district shall not exceed the state-local allocation.

(2) The member municipality's share of a district's state-local allocation shall, for the purpose of this paragraph, be determined on the basis of the average number of resident pupils in the calendar year prior to the year of allocation.

D. The provisions of subsection 2 shall not apply to a school administrative unit whose local allocation is equal to or greater than its state-local allocation, but that unit shall report to the commissioner the amount of the appropriation for the state-local allocation.

2. Local appropriation of state-local allocation. An article in substantially the following form shall be used when a school administrative unit is considering the appro-

priation of the state-local allocation:

"Article : To see what sum the municipalities/district will appropriate from the state-local allocation for school purposes (Recommended \$) and to see what sum the municipality/district will raise as the local share (Recommended \$)."

3. Local leeway. The following provisions apply to local leeway.

A. The legislative body of a school administrative unit may, in addition to that unit's state-local allocation, authorize an additional expenditure for 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. A school administrative unit may not 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.

B. A school administrative unit may appropriate local leeway funds no later than 90 days following the final adoption of the school budget. A school administrative unit may file a request for a waiver of this requirement with the state board. If a school administrative unit demonstrates to the satisfaction of the state board that unusual circumstances require additional local leeway appropriations to avoid serious educational hardship in that unit, the state board may grant that 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 local leeway appropriations shall be to provide that all school administrative units may raise and appropriate at least the amount per pupil established at the computed mill rate for that year to supplement the adjusted allocation when necessary in the judgment of the unit.

(2) The amount appropriated by the Legislature

under section 15507, subsection 6, shall be the maximum state obligation under this subsection.

E. A school administrative unit may establish an "accounts receivable" in anticipation of state aid under this subsection when the fiscal year closes on June 30th.

F. If the local leeway authorization by a school administrative unit exceeds the maximum levy for a municipality within that unit, the commissioner shall add to allocation of the unit for its fiscal year a sum which equals the excess over the maximum levy of the municipality within the unit.

G. If the local leeway appropriation 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 school administrative unit for its fiscal year a sum which, when combined with the local leeway appropriation, shall equal the amount per pupil established at the computed mill rate for that year. This sum shall be paid annually to the unit no later than December 31st for the previous 12-month period.

H. If a school administrative unit raises less than the local leeway maximum, the levy on a municipality within the school 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 a school administrative unit raises less than the local leeway maximum, 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 shall be used when a municipality, school administrative district or community school district is considering the appropriation of local leeway funds:

"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 a

school administrative unit whose local allocation is equal to or greater than its state-local allocation. That unit shall report to the commissioner the amount of the appropriation for local leeway.

§15512. Local funds without state participation

1. Authorization. A school administrative unit may raise and expend funds for educational purposes in addition to the funds available under section 15508 to 15511.

2. Calculation of operating costs. For the purposes of this chapter, moneys raised under subsection 1 shall be included in any future calculation of the school administrative unit's elementary and secondary per pupil operating costs, but shall not be included in any future calculations of the state average or total operating costs.

3. Administrative costs for units with no pupils. If a school administrative unit is required to pay administrative costs and has no allocation of state and local funds, that unit may raise and expend funds for administrative costs.

§15513. Municipal assessment paid to district

1. Presentation of assessment schedule. The assessment schedule based on the budget approved at a community school district of school administrative district budget meeting shall be presented to the treasurer of each municipality which is a member of the district.

The assessment schedule shall include each member municipality's share of the district's local allocation, local leeway and local appropriation without state participation.

2. Municipal treasurer's payment schedule. The treasurer of the member municipality, after being presented with the assessment schedule, shall forward 1/12 of that member municipality's share to the treasurer of the district on or before the 20th day of each month of the fiscal year beginning in July.

§15514. Special school districts

1. School administrative unit. For the purposes of section 15517 and Title 20, sections 3457 to 3460, a special school district shall be deemed to be a school administrative unit.

2. Debt service. Debt service on bonds or notes issued by a special school district shall be included in the school budget of the school administrative unit which operates the schools constructed by that district. The school board for the school administrative unit which operates the special district's schools shall pay to the special school district all sums necessary to meet the payments of principal and interest on bonds or notes when due and to cover maintenance or other costs for which the special school district is responsible.

§15515. School budget; budget formats

1. Content. A school administrative unit shall include in its school budget document:

A. Its state-local allocation, its local leeway and any additional expenditures authorized by statute; and

B. A summary of anticipated revenues and estimated school expenditures for the fiscal year.

2. Budget deadlines. The following time limitations shall apply to adoption of a budget.

A. At least 7 days before the initial meeting of the legislative body responsible for adopting a budget, a detailed budget document shall be available to that legislative body and to any person residing within the geographic area served by the school administrative unit.

B. Notwithstanding a provision of statute or charter to the contrary, school administrative units may adopt an annual budget prior to June 30th, except that the school budgets for vocational regions shall be adopted on or before August 1st.

3. Budget format. The following provisions shall apply to a budget format.

A. Except as provided in subsection 4, the budget format shall be that prescribed by a majority of the school board until an article prescribing the school budget format is approved by a majority of voters in an election in which the total vote is at least 20% of the number of votes cast in the municipality in the last gubernatorial election, or 200, whichever is less.

B. The format of the school budget may be determined in accordance with section 1306.

C. It is the intent of the Legislature that a school board shall attempt to obtain public participation in the development of the school budget.

4. Budget format; town or city charter. In a municipality where the responsibility for final adoption of the school budget is vested by municipal charter in a council, the school budget format may be changed through amendment of the charter under the home rule procedures of Title 30, sections 1911 to 1920, except that the amendment shall be approved by a majority of voters in an election in which the total vote is at least 20% of the number of votes cast in the municipality in the last gubernatorial election.

5. Budget format; town meeting. When the final budget authority is vesting in a town meeting operating under the general enabling procedures of Title 30, the format of the school budget may be determined by the town meeting or under the procedures of Title 30, section 2053 or 2061.

6. Budget format; community school district. The following provisions shall apply to the budget format of a community school district.

A. An article containing the district's proposed budget format shall be placed on the next warrant issued or ballot printed if:

(1) A majority of the district school committee votes to place it on the warrant or ballot; or

(2) A written petition of at least 10% of the number of voters voting in the last gubernatorial election in each municipality within the community school district requests it to be on the warrant or ballot.

B. The article containing the budget format may be voted on by secret ballot at an election conducted in accordance with Title 30, sections 2061 to 2065.

C. The district school committee shall:

(1) Issue a warrant specifying that the municipal officers of the municipalities within the community school district to place the budget format article on the secret ballot; and

(2) Prepare and furnish the required number of ballots for carrying out the election, including absentee ballots.

7. Budget format; articles. The articles prescribed in this chapter shall be included in the budget format and voted on in the adoption of the budget in order to determine state and local cost sharing.

8. Change in budget format. Any change in the budget format shall be voted on at least 90 days prior to the budget year for which that change is to be effective.

§15516. Actions on budget

The following provisions shall apply to approving a budget.

1. Checklist required. Prior to the articles dealing with school appropriations being voted on, the moderator of a regular or special school budget meeting shall require the clerk or secretary to make a checklist of the registered voters present. The number of voters listed on the checklist shall be conclusive evidence of the number present at the meeting.

2. Reconsideration. Notwithstanding another statute to the contrary, in school administrative units where the school budget is finally approved by the voters, a special budget meeting to reconsider action taken on the budget may only be called as follows.

A. It shall be held within 30 days of the regular budget meeting.

B. In a school administrative district or community school district, it shall be called by the school board, or as follows:

(1) At least 10% of the number of voters voting in the last gubernatorial election in member municipalities of the school administrative unit, or 100 voters, whichever is less, shall present a signed petition within 15 days of the regular budget meeting to the school board, specifying the article or articles to be reconsidered; and

(2) On receiving the petition, the school board shall call the special reconsideration budget meeting to be held within 15 days of the date the petition was received.

C. In a municipality the meeting shall be called by the municipal officers:

(1) Within 15 days after receipt of a request

from the school board, if the request is received within 15 days of the budget meeting and it specifies the article or articles to be reconsidered; or

(2) Within 15 days after receipt of a petition presented in accordance with Title 30, section 2065, if the petition is received within 15 days of the budget meeting and it specifies the article or articles to be reconsidered.

3. Invalidation of action of a special reconsideration budget meeting. If a special budget meeting is called to reconsider action taken at a regular budget meeting, the actions of the meeting shall be invalid if the number of voters at the special budget meeting is less than the number of voters present at the regular budget meeting.

4. Line item transfers. Meetings requested by a school board for the purpose of transferring funds from one category or line item to another shall be posted for voter or council action within 15 days of the date of the request.

\$15517. Bonds; notes; other

All bonds, notes or other evidences of indebtedness issued for school purposes by a school administrative unit, as defined in section 15001, for major capital expenses or for current operating expenses, including tax or other revenue anticipation notes, shall be general obligations of the unit.

1. Tax assessments. The municipal officers or school board shall require the sums which may be necessary to meet in full the principal of and interest on these bonds, notes or other evidences of indebtedness payable in each year to be assessed and collected in the manner provided by law for the assessment and collection of taxes.

2. Reduction. The sums to be assessed and collected shall be reduced by the amount of an allocation of funds appropriated by the Legislature to pay the principal and interest owed by the unit in a given year as certified to the school administrative unit by the commissioner. The commissioner shall certify the amount due to the unit within 30 days of its appropriation by the Legislature.

3. Collection. After assessment and reduction, the remaining sum shall be payable from ad valorem taxes which may be levied without limit as to rate or amount upon all the taxable property within the unit.

§15518. Compliance with federal and state laws and regulations

1. Commissioner's duty. The commissioner shall assure that federal or state funds distributed to a school administrative unit are spent in compliance with:

A. Provisions of federal laws and regulations, United States Code, Title 31, Section 1242, as amended, and the Code of Federal Regulations, Title 31, Part 51, subpart 8, chapter 1, revenue sharing;

B. Title 9 of the Education Amendments of 1972, 20 United States Code, Section 1681 et seq., and the Code of Federal Regulations, Title 45, Part 86;

C. Title 6 of the United States Civil Rights Act of 1964, Title 42 of the United States Code 2000d and the Code of Federal Regulations, Title 45, Part 80;

D. Title 5, chapter 337, Human Rights Act and the rules adopted or amended under Title 5, sections 4551 to 4632; and

E. Title 5, section 781 to 790, Code of Fair Practices and Affirmative Action.

2. Assistance. On request of the commissioner, the Human Rights Commission and the Department of the Attorney General shall assist the department in meeting its obligation to respond to complaints raised under this section.

CHAPTER 607MAINE SCHOOL BUILDING AUTHORITY§15701. Short title

This chapter may be known and may be cited as the "Maine School Building Authority Act."

§15702. Purpose

The purpose of the "Maine School Building Authority," shall be to promote the diffusion of the advantages of education, which is essential to the preservation of the rights and liberties of the people, and to aid in the provision of public school buildings in the State.

§15703. Definitions

As used in this chapter, unless the context otherwise

indicates, the following terms have the following meanings.

1. Authority. "Authority" means the Maine School Building Authority.

2. Cost. "Cost" as applied to a project includes:

A. The cost of construction or acquisition;

B. The cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired by the authority for the construction or acquisition;

C. The cost of demolition or removing buildings or structures on acquired lands, including the cost of acquiring lands to which the buildings or structures may be moved;

D. The cost of furnishings and equipment, financing charges, insurance, interest prior to and during construction and for up to one year after completion of construction;

E. The cost of architectural and legal expenses, plans, specifications, estimates of cost, administrative expense and other expenses necessary or incidental to the construction or acquisition;

F. The financing of the construction or acquisition and the placing of the project in operation; or

G. Any other obligation or expense incurred in connection with the construction or acquisition of a project.

3. Project or school construction project. "Project" or "school construction project" means a public school building or an extension or enlargement of a building, including land, furniture and equipment for use as a public school, together with the property rights, easements and interests which may be acquired by the authority for the construction or the operation of that building.

4. School building. "School building" means, but shall not be limited to, a structure used or useful for schools and playgrounds, including facilities for physical education.

§15704. Organization

1. Establishment. The Maine School Building Authority shall be a public instrumentality of the State. The exer-

cise by the authority of the powers conferred by this chapter shall be the performance of essential governmental functions.

2. Membership. The authority shall consist of:

A. Nine members of the state board;

B. The Treasurer of State or his deputy, ex officio, as a nonvoting member; and

C. The commissioner.

3. Administration. The commissioner shall be chairman of the authority. The authority shall elect one of its members as a vice-chairman, and shall also elect a secretary and treasurer who need not be a member of the authority, to serve at the pleasure of the authority. The secretary and treasurer shall be bonded as the authority directs.

4. Quorum. Six members of the authority shall constitute a quorum and the affirmative vote of 5 members shall be necessary for an action. A vacancy in the membership may not impair the right of the quorum to exercise all rights and perform all duties of the authority.

5. Expenses. Members of the authority shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

§15705. Powers

The authority may:

1. Bylaws. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Seal. Adopt or alter an official seal;

3. Office. Maintain an office;

4. Sue and be sued. Sue and be sued in its own name. Civil actions against the authority shall be brought only in the county in which the principal office of the authority shall be located;

5. Construct, repair or alter school projects. Construct or acquire, extend, enlarge, repair or improve school projects, if:

A. The board of directors of a school administrative

district has certified the need for the facilities to the authority;

B. The school board of a municipal school administrative unit has certified the need for the facilities to the municipal officers of the unit, together with their recommendations for school construction and these recommendations have been approved by the municipal officers and state board; or

C. The district school committee of a community school district has certified the need for these facilities to the board of trustees of the community school district, together with the recommendations for school construction and these recommendations have been approved by the district board of trustees and the state board;

6. Revenue bonds. Issue revenue bonds of the authority for its corporate purposes, payable, except as provided in this chapter, solely from the rentals and revenues pledged for their payment; and to:

A. Refund its bonds; and

B. Secure a bond issued by a trust agreement by and between the authority and a corporate trustee. A trustee may be a trust company or bank having the powers of a trust company within or without the State;

7. Temporary loans. Make temporary loans to finance individual projects until the authority issues revenue bonds;

8. Rentals and charges. Fix, alter, charge and collect rentals and other charges at reasonable rates for the use of school projects. These rates shall be determined by the authority to fund:

A. The expenses of the authority;

B. The improvement, repair and maintenance of these projects;

C. The payment of the principal of and the interest on its revenue bonds; and

D. To fulfill the terms and provisions of agreements made with the purchasers or holders of these bonds;

9. Acquire and dispose of property. Acquire, hold and dispose of real and personal property;

10. Acquire land; eminent domain. Acquire in the name of the authority, by purchase or otherwise, on the terms and conditions and in the manner it deems proper, or by the exercise of the power of eminent domain, land or property rights. Using eminent domain, the authority may not take more than 25 acres for one project. In using eminent domain, the authority shall be governed by Title 35, chapter 263;

11. Contracts, leases and agreements. Make and enter into contracts, leases and agreements necessary or incidental to the performance of its duties;

12. Utilize services of other departments. Utilize the services of agencies and departments of the State whenever feasible;

13. Employees. Employ other persons and agents, and fix their compensation;

14. Supplement lease agreements. As funds are appropriated, make a grant to a school administrative unit if the borrowing capacity of the unit, the lease or rental policies of the authority, and other available funds are not sufficient to finance the minimum classroom facilities needed.

A. The authority shall adopt or amend rules to determine eligibility for these grants. The authority's determination of eligibility shall become final on approval of the Governor.

B. The grant of state-appropriated funds shall be considered as matching funds for a federal law requiring matching funds for school construction assistance.

C. The authority may make an additional grant to units extending school opportunities to children living in unorganized territories by adding to the grant the percentage determined by dividing the number of pupils enrolled in the unit from unorganized territories on the preceding April 1st by the total unit enrollment reported in the latest annual report required under section 6004.

D. It is the intent of the Legislature that grants under this subsection shall be made only as supplementary financial aid to those units which cannot finance minimum needed classroom facilities within the maximum loan limit policy of the authority. Grants may not be considered as a precedent for granting general major or minor capital cost funds for school construction; and

15. Other acts. Do all acts necessary or convenient to carry out the powers expressly granted in this chapter.

§15706. Contracts

1. Authorization. The authority may authorize a school administrative unit to design and construct a project, and to acquire the necessary land, furnishings and equipment for it. This authorization shall be subject to the supervision and approval of the authority.

A. A school administrative unit may convey to the authority property rights, easements and other interests, which may be necessary or convenient for the construction and operation of the project on terms agreed on between the authority and the unit.

B. A school administrative unit, notwithstanding the prior creation of a special school district coterminous with that unit, may contract with the authority for the lease or use of a project for a period and for consideration and on terms and conditions as agreed on between the unit and the authority. Rentals or other charges provided by these contracts to be paid for the lease or use of a project shall be current operating expenses of the unit, but shall be excluded in the computation for state school subsidy.

2. Approval. A contract, lease or agreement between a school administrative unit and the authority may not be valid unless first approved by the vote of a majority of:

A. The residents of a municipality voting on this question;

B. In a community school district, the residents of each municipality within the district; or

C. The residents of a school administrative district in the manner provided in sections 1351 to 1354.

3. Delinquency. If a school administrative unit is delinquent in its payments to the authority, the department shall make payment to the authority in lieu of the unit from amounts properly payable to that unit by the department. This payment shall not exceed the amount then presently due to the authority from the unit. If the amounts properly payable to a community school district are less than the amount then presently due to the authority, the department shall pay the balance to the authority from the amounts properly payable to the participating municipalities in the

district. The amount withheld from each of the municipalities shall be proportional to the balance of that municipality's state valuation divided by the total state valuation of all of the municipalities within the district.

4. Delays. Notwithstanding any other law, a delay in the actual completion of a project beyond the date as estimated by the authority, or any damage to or destruction of the whole or a portion of the project may not operate to relieve the school administrative unit of its obligation to pay the rentals and other charges as provided in the contract, lease or agreement.

5. Confirmed agreements. A contract, lease or agreement entered into in accordance with this section shall be ratified and confirmed.

§15707. Revenue bonds

The authority may provide by resolution for the issuance of revenue bonds. These bonds may not exceed \$25,000,000 outstanding at any one time.

1. Payment of principal and interest. Except as provided in this chapter, the principal and interest on those bonds shall be payable solely from the funds provided for this payment.

2. Dates; redemption. The bonds of each issue:

A. Shall be dated;

B. Shall bear interest at rates determined by the authority;

C. Shall mature at a date not to exceed 40 years from their date of issue; and

D. May be made redeemable before maturity, at the option of the authority, at a price and under terms established by the authority prior to their issuance.

3. Form. The authority shall determine the form of the bonds, including interest coupons to be attached, the denomination of the bonds and the places of payment of principal and interest. The authority may designate a bank or trust company within or without the State for these payments. The bonds and attached coupons shall be signed by the chairman of the authority or shall bear his facsimile signature. The official seal of the authority shall be impressed on the bonds and attested by the secretary and

treasurer. If any officer whose signature or a facsimile of whose signature appears on bonds or coupons shall cease to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes.

4. Bonds as negotiable instruments. The authority's bonds shall have all the qualities and incidents of negotiable instruments under Title 11, sections 1-101 to 10-108. Bonds may be issued in coupon or in registered form, or both. Provision may be made for the registration of coupon bonds as to principal or as to both principal and interest, and for the reconversion into coupon bonds or bonds registered as to both principal and interest.

5. Bond sales. The authority may sell bonds either at public or at private sale. It may determine the sale price of bonds.

6. Proceeds of bonds. The proceeds of the bonds shall be used solely for the payment of the cost of projects.

A. The authority shall determine the manner of disbursement of the proceeds. The authority may restrict the disbursement by authorizing resolution or by trust agreement securing the issuance of the bonds.

B. The authority may, under similar restrictions, issue interim receipts, notes or temporary bonds prior to the preparation of definitive bonds with or without coupons. These interim notes may be exchangeable or definitive bonds when these bonds are available for delivery.

C. The authority may provide for the replacement of bonds which become mutilated, destroyed or lost.

D. Bonds may be issued without obtaining the consent of any agency of the State, and without any other proceedings or conditions, except as specifically required by this chapter.

§15708. State credit

Except as provided in this section, issued revenue bonds may not be deemed to constitute a debt or pledge of credit of the State. The bonds shall be payable solely from the funds provided for payment, and a statement to that effect shall be placed on the face of the bonds.

1. Exceptions. The authority, acting on behalf of the

State, may insure the payment of its revenue bonds. To this end, the faith and credit of the State shall be pledged, consistent with the terms and limitations of the Constitution of Maine, Article IX, Section 14-C. The authority shall, in the resolution authorizing the issuance of these revenue bonds, provide that the payment of these revenue bonds shall be insured by the State. On the adoption of the resolution, the payment of these revenue bonds shall be deemed to have been insured by the State and the faith and credit of the State to have been pledged to that payment. The insurance shall take effect without obtaining the consent of any agency of the State, and without any other proceedings or conditions except as specifically required by this chapter.

2. State payments. If moneys are required to pay the revenue bonds so insured, the authority shall, in writing, request the Governor to provide the necessary funds. The Governor shall transfer sufficient moneys to the authority from the State Contingent Account or from the proceeds of bonds. If bonds are to be issued for that payment, the Governor shall order the Treasurer of State to issue bonds in the amount requested subject to the following conditions.

A. The aggregate of the bonds may not exceed the amount set forth in the Constitution of Maine, Article IX, Section 14-C.

B. The bonds shall mature at a time not to exceed 20 years from the date of issue.

C. The Governor shall determine the interest rates and terms for the issue of the bonds.

D. The bonds shall constitute a pledge of the faith and credit of the State.

§15709. Trust funds

Notwithstanding any other law, all moneys received under this chapter whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the bonds or trust agreement securing these bonds shall provide that a person with which these moneys are deposited shall act as trustee of the moneys, and shall hold and apply the moneys for the purposes and subject to the conditions of this chapter.

§15710. Revenue refunding bonds

1. Authorization. The authority may provide by reso-

lution for the issuance of revenue refunding bonds for:

A. Refunding bonds then outstanding which shall have been issued under this chapter, including the payment of a redemption premium or accrued interest; or

B. Constructing enlargements, extensions or improvements by the original project.

2. Conditions. The issuance of these bonds, their maturities and other details, the rights of the holders and the rights, duties and obligations of the authority shall be governed by this chapter, insofar as they may be applicable.

3. Insurance. The provisions of section 15708 shall apply to these revenue refunding bonds.

§15711. Transfer

When bonds have been paid, or a sufficient amount for the payment of the bonds and the interest has been set aside in trust for the benefit of the bondholders, the project shall be conveyed by the authority to the lessee school administrative unit.

§15712. Investment

Revenue bonds and revenue refunding bonds shall be securities in which public officers and public bodies of the State and its political subdivisions, insurance companies, trust companies and their commercial departments, banking associations, investment companies, savings banks, executors, trustees and other fiduciaries and other persons who are now or may be authorized to invest in bonds or other obligations of a similar nature, may properly and legally invest funds, including pension and retirement funds or capital under their control or belonging to them. The bonds shall be securities which may properly and legally be deposited with and received by a state or municipal officer or an agency or political subdivision of the State for a purpose for which the deposit of bonds may be authorized by law.

§15713. Other bonding authority

This chapter shall not be regarded as in derogation of any power now existing. The issuance of bonds need not comply with the requirements of other laws applicable to the issuance of bonds.

§15714. Remedies

A holder of bonds or coupons and the trustee under a trust agreement, except to the extent the rights may be restricted by that trust agreement, may, by civil action, protect and enforce all his applicable rights and may enforce and complete the performance of all duties required by this chapter.

§15715. Preliminary expenses

A school board may, with the approval of the authority, expend out of funds available for the purpose, moneys necessary for preliminary expenses, including architectural and other services. Expenses incurred by the school board prior to the issuance of revenue bonds shall be paid by the board and charged to the appropriate project. The school board shall keep proper records of accounts showing each amount charged. On the issuance of revenue bonds for the project, the funds expended by the school board for the project shall be reimbursed from the proceeds of the bonds.

§15716. Direct payment

The commissioner may pay to the authority funds due to a school administrative unit as part of its state allocation as follows.

1. Application. If a school administrative unit is obligated to make payments to the authority on December 1st, its school board may apply in writing to the commissioner setting forth:

A. The amount due;

B. The date due;

C. The name of the trustee of the authority who shall receive the payment; and

D. Their statement that they desire that the amount specified be paid directly to the designated trustee from moneys apportioned to the unit.

If the commissioner and the Treasurer of State approve the request, the specified amount shall be paid directly to the designated trustee prior to the due date. It shall also be deducted from the amount due to the school administrative unit from the State.

§15717. Exemption from taxation

As the exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the State and for the improvement of their educational facilities, and as projects constructed under this chapter constitute public property, the authority may not be required to pay taxes or assessments on its property, a project or on income from property or projects. Bonds issued under this chapter, their transfer and their income, including profit made on their sale, shall at all times be free from taxation within the State.

§15718. Liberal construction

This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect its purposes.

CHAPTER 609

SCHOOL CONSTRUCTION

§15901. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Concept approval. "Concept approval" means the initial approval of a school construction project by the state board which indicates:

A. Acknowledgment of the local need;

B. Approval of the preliminary design;

C. Approval of estimated costs; and

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

2. Maintenance of plant. "Maintenance of plant" means those activities concerned with keeping the grounds, buildings and equipment at their original condition of completeness or efficiency either through repairs or by replacement of property.

3. Major capital cost. "Major capital cost" means school construction projects and may include the cost for equipment approved under a school construction project.

4. School construction project. "School construction

project" means:

A. On-site additions to existing schools;

B. New schools;

C. The cost of land acquisition;

D. The building of or acquisition of other facilities related to the operation of school administrative units;

E. Major renovations of existing schools, which in the judgment of the commissioner are more feasible than new construction; and

F. Off-site construction may only be included within the meaning of this term if, in the judgment of the commissioner, it is economically in the best interests of the State or there is no other practical way to complete a project.

5. Total cost of school construction projects. "Total costs of school construction projects" means all costs related to or incidental to the project, except financing costs and proceeds from insured losses.

§15902. Administrative units

1. Building committee. The legislative body of a school administrative unit may at a regular or specially called meeting establish a special building committee. If the legislative body does not establish a special building committee, then the school board shall act as the building committee and may delegate the powers and duties of the building committee to the superintendent.

2. School board approval. A plan for a school construction project voted for by a school administrative unit shall be approved by the school board.

3. Authority to sell bonds. A school administrative unit may sell bonds to raise the local share of project costs.

4. Final report to commissioner. On the completion of a school construction project, the building committee shall certify to the commissioner that the construction project has been completed in conformity with the approved plans and specifications.

§15903. Approval of plans and specifications

1. Application. A school construction project or the minor capital costs of a project with an estimated cost of more than \$25,000 shall meet the requirements of this section.

2. Requirements. The plans and specifications shall contain suitable provision for the health, welfare and safety of persons who will utilize the project.

3. Approval. Before acceptance by a school board, the plans and specifications shall be approved by the following:

A. The Bureau of Public Improvements, Department of Finance and Administration;

B. The department;

C. The Department of Human Services; and

D. The State Fire Marshal.

4. Changes. Changes in the plans and specifications shall be approved by the department.

5. Inspection and compliance. If it appears to the commissioner that the school construction project has not been completed in conformity with the approved plans and specifications, the commissioner may cause an inspection of the project to be made. The commissioner shall notify the building committee of the findings of the investigation and of any changes required. The building committee shall make the changes within a reasonable period of time. Failure to do so shall render the school administrative unit liable to the penalties provided in section 6801.

§15904. Local vote

Prior to final approval by the state board, a school construction project must receive a favorable vote conducted in accordance with the following.

1. Councils. In a municipality where the responsibility for final adoption of the school budget is vested in a municipal council by municipal charter or in a town meeting, the vote shall be by secret ballot in accordance with the appropriate provisions set forth in Title 21 and Title 30.

2. School administrative districts. In a school administrative district or vocational region the vote shall be conducted in accordance with sections 1351 to 1354.

3. Community school districts. In a community school district, the vote shall be conducted in accordance with Title 30, sections 2061 to 2065. The district school committee shall:

A. Issue a warrant ordering the municipalities within the district to place the school construction article on the ballot; and

B. Prepare and furnish the required number of ballots for carrying out the vote.

4. Form. The article shall indicate:

A. That the initial local share of the total cost of the project shall be 5% of the total cost or one mill multiplied by the school administrative unit's state valuation, whichever is less;

B. The actual initial local share;

C. That the entire additional operating costs of the new project during its first 2 years shall be borne by revenues raised by the school administrative unit;

D. The estimated amount of the additional operating costs during each of the first 2 years; and

E. The state allocation percentage in the year in which the project received concept approval.

§15905. State board

1. Approval authority. The state board must approve a school construction project.

A. The state board may approve projects as long as no project approval will cause debt service costs, as defined in section 15503, subsection 9, paragraph A, to exceed \$30,000,000 in a subsequent fiscal year.

B. Nonstate funded projects, such as school construction projects or portions of projects financed by proceeds from insured losses, money from federal sources, other noneducational funds or local funds which shall not be reimbursed by the State, shall be outside the total cost limitations set by the Legislature.

2. Secondary school construction project limitations. The state board may approve a secondary school construction project designed to accommodate fewer than 300 pupils only

if the state board has determined that the school will have an adequate educational program. The board may not approve a secondary school construction project if fewer than 10 full-time teachers will be employed at the school, unless the location of the school would be geographically isolated.

3. Certificate of approval. A certificate of approval shall be issued for each project approved by the state board. The certificate shall bear the amount of state aid and other stipulations or conditions. The certificate shall be signed by the commissioner and shall be conclusive evidence of the facts stated on it.

4. Rules. The state board may adopt or amend rules relating to the approval of school construction projects.

§15906. Suits challenging school bond issues, security required

In any action challenging the validity of the issuance of bonds for a school construction project authorized and approved under this chapter, or seeking to enjoin the commencement, construction or completion of any such school construction project, the following shall apply.

1. The plaintiff to provide security. If the court has granted a motion to dismiss or has granted summary judgment against the plaintiff, the court may require the plaintiff to provide security during the period of any appeal from that judgment to cover any costs or damages as may be incurred or suffered by any party resulting from delay of the project, including any loss of purchasing power during the period of delay.

2. The amount of security. In determining the amount of security to be required, the court shall consider a recognized index of building costs, the consumer price index and other relevant evidence concerning the cost of the project and the estimated period of delay during the appeal.

§15907. Payment

1. Payment of state's share. The state allocation for debt service costs shall be paid by the commissioner to each unit according to that unit's debt retirement schedule.

2. Payment of local share. A school administrative unit shall pay the local share of their project costs.

3. Local funds ineligible for state aid. Notwithstanding any other law, the initial local share of school

construction projects shall not be considered educational costs for purposes of computing the state and local allocation under chapter 605.

§15908. Design limits

1. Technical assistance. In order to provide the technical assistance required by the state board in assessing proposed school construction projects, the Bureau of Public Improvements may contract for the services of a professional engineer whenever the bureau is not employing qualified personnel on a full-time basis.

2. Energy conservation standards. The state board shall approve only those projects which have been designed in accordance with rigorous standards for the conservation of energy.

3. Life-cycle costs. The department and the Bureau of Public Improvements may not approve the plans and specifications of a project which does not meet the requirements of Title 5, chapter 153, subchapter I-A.

§15909. Financing

1. Rate of construction aid. A school administrative unit's initial local share of the total cost of a project shall be either 5% of the total cost or the equivalent of one mill multiplied by the unit's state valuation, whichever is less.

A. The one mill shall be calculated on the state valuation in effect at the time the project is first approved by the state board.

B. The unit's initial local share shall be applied to the project costs during the period of construction.

C. The unit's initial local share may be derived from local appropriations or gifts.

D. The unit's initial local share shall not be considered an educational cost for purposes of subsidy reimbursement under chapter 605.

2. Bonds. A school administrative unit shall sell bonds in its name for the total cost of the project minus the amounts listed in paragraph A. Bond sales shall be consistent with rules adopted or amended by the state board.

A. The amount to be bonded shall be determined as fol-

lows. The total cost of the project shall be reduced by:

- (1) The initial local share;
- (2) Proceeds from insured losses;
- (3) Money from federal sources; and
- (4) Other noneducational funds, except gifts and moneys from federal revenue sharing sources.

B. A school administrative unit may borrow money for projects in anticipation of bond sales. Borrowing shall be consistent with rules adopted or amended by the state board.

3. Deductions; cost of project. Proceeds from insured losses, money from federal sources and other noneducational funds shall be deducted from the total cost of the project to determine the amount on which the state's share shall be calculated. Proceeds from gifts or moneys from federal revenue sharing sources shall be treated as local appropriations.

§15910. Requirements

The following requirements shall apply to a school construction project.

1. Applications. An application for approval of a project shall include the information required by the state board.

2. Reports. A school administrative unit shall file:

A. A copy of the debt retirement schedule with the commissioner as soon as bonds are sold; and

B. A final report on a project to include any information the commissioner may require. This report shall be made within the time specified by rule by the commissioner.

3. Penalty. Failure to submit accurate reports within specified times shall be deemed sufficient cause for withholding school construction aid until the school administrative unit complies.

4. Time of signing. A school administrative unit may not sign a contract for construction or begin construction

until the final plans and specifications have been approved by the commissioner, the Bureau of Public Improvements, the Department of Human Services and the State Fire Marshal.

§15911. Community services; conditions of approval

The state board may approve construction of school buildings without obligating the State to pay a share of the costs of those buildings, if those portions are to be constructed to fulfill a community service need.

1. Community service. "Community service" means a service which does not fulfill an educational purpose or which is not restricted to a school-age population.

2. Breakdown of costs. If construction of facilities to meet a community service need occurs in conjunction with a school construction project, the board shall:

A. Require a breakdown of costs for the entire project; and

B. Approve a plan as to how operating costs, including repairs, shall be shared by agreement between the municipal officers and the school board.

3. Findings. The state board's finding shall become a part of the certificate of approval and shall be the basis on which all costs shall be apportioned between the municipality and the school administrative unit for as long as that portion of the project shall:

A. Continue to serve that community need; and

B. Remain under the control of persons other than the school board.

4. Application. An application from a school administrative unit for approval of a school construction project shall include evidence that approval will result in meeting or helping to meet the total construction and program needs of the area to be served.

§15912. Inspection of facility; compliance

If it appears that a school administrative unit has failed to maintain a school facility which protects the health, welfare and safety of the persons utilizing the facility, the commissioner may cause an inspection to be made. The commissioner shall notify the school administrative unit of the findings of the investigation and of any

changes to be made. The school administrative unit shall make the changes promptly. If it fails to make the changes, it shall be liable to the penalties provided in section 6801.

§15913. School bus shelters

1. Placement. School bus shelters for school children, when approved by the school board of the unit in which they are located, may be placed or maintained outside the right-of-way and at least 33 feet from the center line of a highway.

2. Requirement. A shelter shall be:

A. Constructed of steel or other durable material with concrete floor raised above ground level;

B. Kept clean, well painted or otherwise suitably maintained at all times; and

C. Kept free from snow.

3. Removal. The school board may order its removal if it does not meet these requirements.

CHAPTER 611

CONDEMNATION

§16101. Authority for condemnation

1. Conditions. A school administrative unit may condemn land for the construction or enlargement of school buildings and playgrounds when:

A. The owner of the property refuses to sell;

B. The parties are unable to agree on a price within 60 days of the first offer; or

C. The owner of the property resides outside the State and has no authorized agent or attorney within the State.

2. School administrative units. The following school administrative units may condemn land for school construction:

A. Municipalities;

B. School administrative districts; and

C. Community school districts.

3. Restrictions. A school administrative unit may not condemn lots exceeding 25 acres for one project.

§16102. Procedures

1. Authority to condemn. When the location of a school lot has been legally determined by a school administrative unit, the land may be condemned:

A. In a municipality by the municipal officer;

B. In a school administrative district by a school board; and

C. In a community school district by the district board of trustees.

2. Appraisal. Damages for condemnation shall be determined:

A. As provided for laying out town ways for municipalities; or

B. As provided for laying out county ways in Title 23, sections 2052 and 2054, for school administrative districts and community school districts, except that notice need not be given to the Department of Transportation.

3. Payment of damages. The school board may take lots for school construction after payment of these damages. If the owner of the condemned property resides outside the State the damages shall be deposited in the municipal treasury for municipalities and in the county treasury for other school administrative units.

4. Description. The school board shall cause a plan and description of the lots, as they have laid them out, to be recorded in the registry of deeds where the land lies, within 30 days of payment or deposit of damages.

5. Notice. The school board shall serve on the owner a certified copy of the vote directing the condemnation. This notice shall be served according to the Maine Rules of Civil Procedure.

§16103. Reversion

If land taken under this chapter has ceased to be used

for school purposes for 2 successive years, the lot shall revert to the owner, the owner's heirs or assigns, on demand. The request for reversion shall be made in writing to the school board. The school board may enter the lot and remove the school buildings within 6 months after the demand.

§16104. Appeals

If the owner is aggrieved at the damages awarded him under this chapter, he may appeal to the Superior Court of the county in which the land or any part of it lies.

1. Procedure. The owner shall file a complaint in the court and serve the school administrative unit with a copy within 90 days of the date of recording of the description of the lot in the registry of deeds. The complaint shall set forth substantially the facts, but shall not state the amount of the damages previously awarded to the owner.

2. Determination of damages. The damages may be determined in the Superior Court by a committee of reference if the parties so agree, or by a jury verdict.

3. Costs. If the damages are increased, the school administrative unit shall pay the damages and costs; otherwise, the costs shall be paid by the appellant.

4. Committee of reference compensation. A committee of reference shall be allowed a reasonable compensation for its services. This compensation shall be fixed by the court upon the presentation of its report and paid from the county treasury upon the certificate of the clerk of courts.

5. Further appeal. An appeal may be taken by a party from the judgment of the court to the Supreme Judicial Court.

§16105. School lots; erroneous description

1. Reappraisal. If a school administrative unit has designated, located and described a lot upon which to construct or enlarge a school and by mistake or omission has failed to comply with the law whereby the location has been rendered invalid, 3 legal voters and taxpayers of that unit may apply in writing to the school board and have the lot, so designated or described, reappraised by them.

2. Notice. The school board to whom an application has been made shall give not less than 7 nor more than 20

days' notice to the municipal clerks and to the person owning or having charge of the real estate. The notice shall contain the time and place for the hearing. After examination and hearing of all interested, the school board shall appraise and affix a fair value to the lot as set out, exclusive of improvements made by the school administrative unit. As soon as practicable, the school board shall notify the municipal clerks and the person owning or having charge of the real estate of the appraisal.

3. Assessment and collection. The sum fixed as the value of the lot shall be assessed, collected and paid over as other school money.

4. Tender. A sum which has been tendered and is in the hands or under the control of the persons owning or having charge of the land shall be allowed in payment of the appraisal.

5. Appeal by either party. The school board or the person owning or having charge of the land reappraised may appeal within 10 days if they are dissatisfied with the reappraisal.

A. The claim for appeal shall be submitted to the county commissioners of the county in which the land lies, and shall include a copy of the proceedings.

B. The determination of the appeal shall be by a majority of the commissioners who are not residents of the school administrative unit.

C. The determination may be appealed by an aggrieved party to the Superior Court as provided under section 16104.

6. Improvements inure to units. If a school administrative unit has erected or moved a building on or improved a lot, the improvement shall inure to the benefit of the school administrative unit. The building or improvements may be as completely occupied and controlled by the school administrative unit as it would have been if the location had been in strict conformity to law.

7. Tax not affected. The legality of a tax assessed to build, repair or remove a school building and to pay for a lot shall not be affected by a mistake or error in designation or location of a lot.

Sec. 6. Transition. The following provisions shall apply to the transition from the Revised Statutes, Title 20

to Title 20-A.

1. Definition. For the purposes of this section:

A. "Management board" means a school board, advisory committee, cooperative committee, joint committee or other governing body of a school unit; and

B. "School unit" means a school administrative unit, vocational region, school union, union school and vocational-technical institutes.

2. Personnel. This Act shall have no effect on the terms or appointment of an employee of the department, of a school unit or management board operating under this Title.

3. Funds and equipment transferred in department. Notwithstanding the provisions of the Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in an account or subdivision of an account of the Department of Educational and Cultural Services shall be transferred to the proper place under this Act by the State Controller on the request of the Commissioner of Educational and Cultural Services and the State Budget Officer, and with the approval of the Governor.

4. Funds and equipment transferred in school unit. Notwithstanding the provisions of the Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in an account or subdivision of an account of a school unit shall be transferred to the proper place under this Act on the approval of the management board.

5. Agreements, leases, contracts, authorizations or bonds. All agreements, leases, contracts, authorizations, notes or bonds, issued under the Revised Statutes, Title 20, prior to the effective date of this Act shall continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked.

6. Dedicated revenues. This Act shall not be construed to change the status of any dedicated revenues. All dedicated revenues existing prior to this Act shall not lapse because of this Act, but shall be transferred to the funds of the same name which are created by this Act.

Sec. 7. Legislative intent. It is the intent of the Legislature that this Act shall be considered a revision of the Department of Educational and Cultural Services' governing statutes.

Sec. 8. Effective date. This Act shall take effect on July 1, 1983.

Effective July 1, 1983.

CHAPTER 694

H.P. 1959 - L.D. 1932

AN ACT to Establish Standard Procedures Enabling the Formation of Municipal Power Districts.

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

Sec. 1. 35 MRSA §69 is amended by adding at the end a new paragraph to read:

This section does not apply to municipal power districts organized in accordance with chapter 241, unless by the express terms of chapter 241 the provisions of this section are made applicable to those districts.

Sec. 2. 35 MRSA c. 241 is enacted to read:

CHAPTER 241

MUNICIPAL POWER DISTRICTS

§2951. Short title

This chapter may be cited as the "Municipal Power District Enabling Act."

§2952. Purpose

The purpose of each municipal power district formed under this chapter is to generate, supply or extend the efficient use of electric energy for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

§2953. Formation of district

A municipal power district may be formed under the following provisions.