

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985  
Chapters 384-End

AND AT THE

**FIRST SPECIAL SESSION**

November 13, 1985

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1985

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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Field Examiner and a Clerk Typist to hold hearings and investigate complaints generated by changes in the General Assistance Program.

Sec. 14. Effective date. This Act shall take effect October 1, 1985.

Effective October 1, 1985.

## CHAPTER 490

S.P. 381 - L.D. 1048

### AN ACT to Clarify and Improve the Laws on Education in the Unorganized Territory.

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

Sec. 1. 5 MRSA §8002, sub-§2, as amended by PL 1981, c. 464, §1, is further amended to read:

2. Agency. "Agency" means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term shall not include the Legislature, Governor, courts, University of Maine, Maine Maritime Academy, vocational-technical institutes, the Commissioner of Educational and Cultural Services for schools of the unorganized territory, school administrative units, special purpose districts or municipalities, counties or other political subdivisions of the State. ~~From July 17, 1978 until January 17, 1979, the term "agency" shall not include the Department of Marine Resources-~~

Sec. 2. 20-A MRSA §3251, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§3251. School privileges

Subject to such reasonable rules as the commissioner may adopt, all Persons persons between the ages of 5 and 20 years who have attained the age of 5 years on October 15th and have not reached 20 years of age before the start of the school year and who reside with a parent or legal guardian in an the unorganized territory or who are resident emancipated minors or residents at least 18 years old shall be entitled to school privileges eligible to attend elementary and secondary schools and to receive appropriate special education and related services without charge to themselves or their parents. These privileges Education shall be provided under the direction of the commissioner under rules adopted or amended by the commissioner in accordance with section 3 and approved by the Governor and shall meet the general standards for elementary and secondary schooling and special education established pursuant to this Title.

Sec. 3. 20-A MRSA §3252, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

§3252. Elementary pupils

1. Elementary school privileges provided. The commissioner may provide elementary schooling for resident children by establishing and maintaining such elementary schools as may seem advisable or by sending these children as tuition students to elementary schools elsewhere in the State.

2. Admission by receiving school. Tuition students sent to a public school shall be admitted by the receiving school officials upon receipt of a notice of intention from the commissioner.

3. Benefits. Tuition students shall be entitled to all privileges and benefits and shall be subject to the same rules as students residing in the receiving school administrative unit.

4. Tuition. The commissioner shall pay tuition for each tuition student in the amount approved as the receiving administrative unit's official tuition cost pursuant to section 5804 or 7302 in an amount agreed upon between the commissioner and the school board of the unit.

5. Transportation and board. The costs of transportation or board may be paid in full or in part by the commissioner.

6. Studies outside the country. The commissioner may in his discretion make special arrangements for children in the unorganized territory to attend a public school in the adjoining territory of the Province of Quebec and may pay tuition for those students.

Sec. 4. 20-A MRSA §3253, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 5. 20-A MRSA §3253-A is enacted to read:

§3253-A. Secondary students

1. Tuition student. Any eligible resident student who may be judged by the commissioner to be qualified may attend as a tuition student any secondary school in the State approved for tuition purposes to which he or she may gain entrance.

2. Benefits. Tuition students shall be entitled to all privileges and benefits and shall be subject to the same rules as resident students of a receiving school administrative unit or other enrolled students of a receiving private school.

3. Tuition. The commissioner shall pay tuition for each tuition student in an amount equal to the official tuition rate approved pursuant to sections 5805, 5806, 5809 or 7302 for the receiving school for nonresident students enrolled in secondary schools or special education or vocational education programs, provided that the student maintains a satisfactory standard of deportment and scholarship. At the request of the school board of a receiving school administrative unit, the commissioner may pay up to 110% of the official tuition rate for students enrolled under this section.

4. Transportation or board. The costs of transportation or board may be paid in full or in part by the commissioner.

Sec. 6. 20-A MRSA §3254, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 7. 20-A MRSA §3254-A is enacted to read:

§3254-A. Other educational programs

1. Special education programs. The commissioner shall provide special education and related services to all exceptional students of the unorganized terri-

tory in accordance with the provisions of chapter 303, except that the commissioner shall carry out the duties of school administrative units and superintendents as described in that chapter.

2. Preschool programs. The commissioner may establish preschool programs for handicapped children between the ages of 3 and 5 years or contract with school administrative units to provide the programs.

3. Other programs. The commissioner may establish evening schools, day schools, classes and educational programs for persons over 16 years of age residing in the unorganized territory and not attending school. Students in these schools or programs shall be subject to the same conditions and rules as students in other similar schools or programs established pursuant to this Title.

Sec. 8. 20-A MRSA c. 119, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

COMPULSORY SCHOOL ATTENDANCE

§3271. Compulsory attendance at school

1. Required attendance. Persons residing in the unorganized territory who are at least 7 and under 17 years of age shall attend a public day elementary or secondary school or an approved private school during the time it is in session.

2. Alternative instruction. Alternative instruction may be substituted for attendance in a day school in the following cases.

A. The person is enrolled in an approved special education program.

B. The person obtains equivalent instruction in any other manner arranged or approved by the commissioner.

C. A person 14 years of age or older, with permission of a parent and approval of the commissioner, participates in a suitable program of training or combined work and study.

3. Exceptions. Attendance at school or an alternative program shall not be required of the following:

A. A person who has graduated from high school before his 17th birthday;

B. A person who is at least 15 years old, has completed the 9th grade and has permission to leave school from a parent and the commissioner; and

C. A person who has been adjudged an habitual truant and has been excused from attendance pursuant to procedures established by the commissioner.

§3272. Truancy; excusable absences

1. Truancy. A person required to attend school or alternative instruction under this chapter is truant when an absence of 1/2 day is not excused.

2. Habitual truancy. A person is a habitual truant if the person is required to attend school or alternative instruction under this chapter and is absent, without excuse, for the equivalent of 10 full days or for at least 1/2 day on 7 consecutive school days within any 6-month period.

3. Excusable absence. A person's absence is excused when the absence is for the following reasons:

A. Personal illness;

B. An appointment with a health professional that must be made during the regular school day;

C. Observance of a recognized religious holiday when the observance is required during the regular school day;

D. A family emergency; or

E. A planned absence for a personal or educational purpose which has been approved.

4. Adult responsibility. Any adults having a person of compulsory school age under their control shall cause the person to attend school as provided in this section.

§3273. Enforcement

1. Offenses. Each of the following acts shall constitute a civil violation under this chapter:



A. Having control of a person who is a habitual truant and being primarily responsible for that truancy;

B. Inducing a student to be truant; or

C. Harboring or concealing a student who is a truant.

2. Jurisdiction. The District Court shall have jurisdiction over these offenses.

3. Process. Warrants and legal process issued by a court to enforce this section may be directed to and executed by the attendance officer of the school administrative unit where the offense is alleged to have been committed.

4. Penalties. The following provisions apply to penalties.

A. A person who is guilty of a civil violation under:

(1) Subsection 1, paragraph A shall be punished by a forfeiture of not more than \$200; and

(2) Subsection 1, paragraphs B and C shall be punished by a forfeiture of not less than \$500.

B. All forfeitures in paragraph A shall be paid to the treasurer of the school administrative unit in which the offense was committed for the support of its public schools.

C. The court may require that the offender undergo counseling by a professional selected by the offender, with the court's approval, or by the court. The counselor shall submit a written report to the court and to the offender.

Sec. 9. 20-A MRSA §3301, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§3301. General powers

The commissioner shall have the following general powers.

1. Agents. The commissioner may appoint agents for an the unorganized territory who shall to act as

attendance officers and perform such other school duties as are delegated to them by the commissioner.

2. Special attendance officers. The commissioner may appoint special attendance officers for an the unorganized unit territory. Attendance officers shall be subject to the provisions of sections 3302 and 5052-

3. School buildings. School buildings not privately owned in an unorganized territory are declared to be the property of the State. The commissioner may hold, use and direct repairs, changes or additions to the school buildings-

4. Disposal of property. The commissioner may sell, transfer or dispose of school property or equipment in the unorganized territory. The proceeds of the sale, transfer or disposal shall be used as provided in section 3351-

5. Employment of personnel. The commissioner shall employ teachers, administrators and other personnel as necessary to provide schooling and to care for the school property in the unorganized territory.

6. Contracting authority. The commissioner may make all contractual arrangements deemed necessary to provide elementary, secondary, special education and vocational education outside the unorganized territory in other schools of the State.

7. Payment of board. In each case where application for the payment of board for an eligible student is made, the commissioner shall determine if board is necessary. The commissioner shall approve all boarding arrangements prior to making payments. Payments for board shall be made for a period of not less than one school month upon receipt of a satisfactory attendance record for the student from a responsible school official.

Sec. 10. 20-A MRSA §3302, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 11. 20-A MRSA §3302-A is enacted to read:

§3302-A. Care of school property

The commissioner shall have charge of all school property in the unorganized territory.

1. School buildings. The commissioner shall hold and manage the schools of the unorganized terri-

tory and provide custody and care, including all necessary repairs, changes and additions to the buildings.

2. Books and equipment. The commissioner shall furnish each school with the books and equipment necessary for the course of study offered in the schools and shall provide students in each school with school books and necessary apparatus without expense to them or their parents. The commissioner shall assure that all necessary school books, apparatus and supplies are seasonably distributed to each school, accurately accounted for and economically used.

3. Ownership of school buildings. School buildings not privately owned in the unorganized territory are declared to be the property of the State and held in trust for the unorganized territory.

4. Use of school property. The commissioner may rent or lease any unused school building or portion of a building for school-related purposes for any purpose which would not interfere with the school programs. The proceeds of the rentals or leases shall be paid to the Unorganized Territory School Fund.

5. Disposal of property. The commissioner may sell, transfer or dispose of school property, books or equipment in the unorganized territory. The proceeds of any sale, transfer or disposal shall be paid to the Unorganized Territory School Fund.

6. Applicability of general laws relating to illegal conduct. Sections 6804 and 6807 shall apply to the unorganized territory, except that the commissioner shall stand in place of the school administrative unit. To enforce these laws, action may be brought in the District Court or the Superior Court. All forfeitures collected as part of such enforcement actions shall be deposited to the Unorganized Territory School Fund, except that an amount not to exceed the costs of prosecution may be paid, upon court order, to the county treasury.

Sec. 12. 20-A MRSA §3303, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

§3303. Student census

By April 1st of each year, the commissioner shall determine the number, names and ages of all students

of eligible age in the unorganized territory who have not graduated from high school.

Sec. 13. 20-A MRSA §3304, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Income credited. ~~The portion of~~ tuition income based on ~~capital expenditure~~ shall be credited to the Unorganized Territory School and Capital Working Funds for the fiscal year in which it is earned and shall reduce the indebtedness charged against the unorganized unit in which it was earned. The balance of tuition income shall be credited to the General Fund for the year in which it is earned and shall be a credit in computing the school assessment on the property of the unorganized unit in which it was earned.

Sec. 14. 20-A MRSA §3351, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§3351. Unorganized Territory School Fund and Unorganized Territory School Contingency Fund

1. Appropriation by the Legislature. The Legislature ~~may~~ shall appropriate money to the Unorganized Territory School and Capital Working Funds.

2. Expenditures by the commissioner. The commissioner may expend amounts necessary to carry out ~~subchapters II and III~~ this chapter from the Unorganized Territory School and Capital Working Funds and for a purpose necessary for the schooling of children in the unorganized territory, including:

A. Salaries, board and traveling expenses of teachers ~~and~~, supervisors and other employees;

B. Conferences, training programs and professional improvement of teachers and other employees;

C. Fuel and janitor service;

D. Tuition, board and transportation of elementary and secondary school students;

E. Text and reference books, school apparatus and supplies, leases or rentals of lots or school buildings;

F. Minor repairs to school buildings or equipment;

- G. Services, expenses and fees of agents, attendance officers and clerical assistants;
- H. Office expenses and utility service;
- I. School medical and dental services;
- J. The erection, equipping, major repair, remodeling or alteration of schoolhouses and other requisite buildings;
- K. The purchase of lots or buildings for school purposes or faculty housing;
- L. The purchase, equipment and major repair of school buses; and
- M. For any other necessary capital expenses for providing schools in the unorganized territory, including a capital reserve account for future construction and major renovations.

3. Balances. Unencumbered balances in the Unorganized Territory School and Capital Working Funds shall not lapse but shall be carried forward to the same fund for use in the next fiscal year.

4. Gifts and bequests. The Treasurer of State may accept gifts, bequests and other funds from public or private agencies, subject to any conditions approved by the commissioner, to be credited to the fund. A gift, bequest or grant made for a particular designated project shall be credited to the fund created in this section.

5. Short-term investments. The Treasurer of State may, with the approval of the commissioner, make short-term investments of accumulated assets in the fund. The income and capital shall be returned to the fund. The income may be expended by the commissioner for the purposes described in subsection 2.

Sec. 15. 20-A MRS §3403, sub-§4, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

4. Recovery of expenses. If a municipality or plantation recovers its civil organization within 2 years, the expenses paid under subsection 3, on the recommendation of the commissioner, shall be deducted by the Treasurer of State from school funds that may subsequently become payable to the municipality. The Treasurer of State shall credit these deductions to the appropriation for schools in the unorganized

territory Unorganized Territory School and Working Capital Funds.

Sec. 16. 20-A MRSA §5401, sub-§16, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

16. Unorganized territory. The ~~commissioner~~ shall pay the Payment of transportation or board costs of eligible ~~elementary~~ students from the unorganized ~~territories~~ territory shall be made in accordance with ~~section 3252~~ chapter 119.

Sec. 17. 20-A MRSA §5601, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

3. Unorganized territory. The ~~commissioner~~ shall pay the Payment of board costs of students from the unorganized ~~territories~~ territory shall be made as provided in ~~sections 3252 and 3253~~ chapter 119.

Sec. 18. 20-A MRSA §5811, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 19. Municipal Cost Component. The Legislature determines that the amount of \$33,688 is added to the municipal cost component for 1985-86 as required in the Maine Revised Statutes, Title 36, chapter 115. This amount shall be added by the State Tax Assessor to other amounts determined by the Legislature when determining the mill rates under that chapter.

Sec. 20. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1985-86</u>	<u>1986-87</u>
<u>EDUCATIONAL AND CULTURAL SERVICES,</u>		
<u>DEPARTMENT OF</u>		
Education in the		
Unorganized Territory	\$33,688	\$35,372

Effective September 19, 1985.

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**CHAPTER 491**

H.P. 1026 - L.D. 1478

AN ACT to Reauthorize the Forest Resource Assessment and Marketing Program.