

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

CHAPTER 398
H.P. 1270 - L.D. 1785

**An Act To Amend Certain
Education Laws**

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

Sec. 1. 5 MRSA §20005, sub-§§19 and 20, as amended by PL 2005, c. 674, §1, are further amended to read:

19. Fiscal and program accountability. Enhance its current efforts to ensure fiscal and program accountability for the services it purchases and provides; and

20. Review policies. Review the full range of public policies and strategies existing in State Government to identify changes that would strengthen its response, identify policies that might discourage excessive consumption of alcohol and other drugs and generate new funding for alcohol and other drug services; and

Sec. 2. 20 MRSA §3457, as amended by PL 1977, c. 563, §3 and c. 625, §5, is repealed.

Sec. 3. 20 MRSA §3458, as corrected by RR 2011, c. 2, §16, is repealed.

Sec. 4. 20 MRSA §3459, as amended by PL 1989, c. 700, Pt. A, §§42 and 43, is repealed.

Sec. 5. 20 MRSA §3460, as amended by PL 1989, c. 700, Pt. A, §44, is repealed.

Sec. 6. 20-A MRSA §256, sub-§6, as enacted by PL 1989, c. 518, Pt. A, §1, is repealed.

Sec. 7. 20-A MRSA §256, sub-§11 is enacted to read:

11. Resources for people with disabilities. The department shall develop and maintain a comprehensive database of resources for people with disabilities on the department's publicly accessible website.

Sec. 8. 20-A MRSA §405, sub-§8, as enacted by PL 1987, c. 140, §2, is repealed.

Sec. 9. 20-A MRSA §1311, sub-§3, ¶E, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

E. The board of directors of a district ~~which that~~ has received a certificate of approval of a school construction project pursuant to former Title 20, section 3458 to be paid in accordance with the alternate method prescribed in former Title 20, section 3460, may borrow in anticipation of unpaid portions of state aid and may issue temporary and renewal notes.

Sec. 10. 20-A MRSA §1490, sub-§3, ¶E, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

E. A regional school unit board that has received a certificate of approval of a school construction project pursuant to former Title 20, section 3458 to be paid in accordance with the alternate method prescribed in former Title 20, section 3460 may borrow in anticipation of unpaid portions of state aid and may issue temporary and renewal notes.

Sec. 11. 20-A MRSA §1490, sub-§6, ¶¶D and E, as enacted by PL 2007, c. 240, Pt. XXXX, §13, are amended to read:

D. If the issuance of bonds or notes together with all outstanding indebtedness included within the regional school unit's limit of indebtedness would cause the regional school unit's indebtedness to exceed 10% of the total of the last preceding state valuation of all the municipalities within the regional school unit, the regional school unit board may not issue those bonds or notes until it has received a certificate of approval pursuant to former Title 20, section 3458.

E. If a certificate of approval under former Title 20, section 3458 indicates that the state board has authorized state aid to be paid in accordance with the alternate method prescribed by former Title 20, section 3460, the total estimated amount of state aid payable on account of the school construction project described in the certificate of approval must be treated as outstanding school indebtedness for the purpose of computing the borrowing capacity of the regional school unit to finance that project by issuing its bonds or notes. State aid is determined by applying the applicable percentage of state aid to the total estimated cost of the project, as set forth in the certificate of approval.

Sec. 12. 20-A MRSA §2405, sub-§4, as amended by PL 2015, c. 448, §5, is further amended to read:

4. Reporting and evaluation. An authorizer shall submit to the commissioner and the Legislature an annual report within ~~90~~ 150 days of the end of each school fiscal year summarizing:

A. The authorizer's strategic vision for chartering and progress toward achieving that vision;

B. The performance of all operating public charter schools overseen by the authorizer, according to the performance measures and expectations specified in the charter contracts;

C. The status of the authorizer's public charter school portfolio of approved charter applications, identifying all public charter schools within that portfolio as:

- (1) Approved, but not yet open;
- (2) Operating;
- (3) Renewed;
- (4) Transferred;
- (5) Terminated;
- (6) Closed; or
- (7) Never opened;

D. The oversight and services provided by the authorizer to the public charter schools under the authorizer's purview; and

E. The total amount of funds collected from each public charter school the authorizer authorized pursuant to subsection 5, paragraph B and the costs incurred by the authorizer to oversee each public charter school.

Sec. 13. 20-A MRSA §2413, sub-§2, ¶A, as amended by PL 2013, c. 272, §2, is further amended to read:

A. For each public charter school student, the school administrative unit in which the student resides must forward the per-pupil allocation to the public charter school attended by the student as follows.

(1) The per-pupil allocation amount is the EPS per-pupil rate for the school administrative unit in which the student resides, as calculated pursuant to section 15676, based on the student's grade level and adjusted as appropriate for ~~economic disadvantage~~ economically disadvantaged students and ~~limited English proficiency learners~~ pursuant to section 15675, subsections 1 and 2. Debt service and capital outlays may not be included in the calculation of these per-pupil allocations. The department shall adopt rules governing how to calculate these per-pupil allocations, including those for targeted funds for assessment technology and kindergarten to grade 2 programs.

(2) For students attending public charter schools, the school administrative unit of residence shall forward the per-pupil allocations described in subparagraph (1) directly to the public charter school attended. These per-pupil allocations must be forwarded to each public charter school on a quarterly basis, as follows. For each fiscal year, allocations must be made in quarterly payments on September 1st, December 1st, March 1st and June 1st. The September and December payments must be based on the identity and number of students enrolled or anticipated to be enrolled in the public charter school at the

opening of school for that school year. The number of students may not exceed the maximum enrollment approved in the charter contract for that year unless a waiver is obtained from the authorizer. The March and June payments must be based on the identity and number of students enrolled in the public charter school on February 1st.

(3) For transportation expenses, the average per-pupil expense in each school administrative unit of residence must be calculated and an amount equal to a proportion, up to but not more than 100%, of that per-pupil allocation amount must be forwarded to the public charter school attended on the same basis as the per-pupil allocations for operating funds. The percentage of that per-pupil expense must be determined by the authorizer of the public charter school and must be based on the cost of transportation services provided by the public charter school to the student.

(4) The department shall pay to the public charter school any additional allocation assigned to the public charter school for gifted and talented students pursuant to section 15681-A, subsection 5 in the year in which the allocation is assigned.

A school administrative unit is not required to send funds to a public charter school for a student enrolled in the public charter school's preschool or prekindergarten program if the school administrative unit of the student's residence does not offer that program to its own residents.

Sec. 14. 20-A MRSA §2413-A, sub-§2, ¶A, as enacted by PL 2015, c. 54, §5, is amended to read:

A. For each public charter school, the total allocation must be determined as follows.

(1) The total allocation must be calculated pursuant to section 15683-B, based on the student's grade level and adjusted as appropriate for economically disadvantaged students and ~~limited English proficiency students~~ learners pursuant to section 15675, subsections 1 and 2. Debt service and capital outlays may not be included in the calculation of these allocations. The department shall adopt rules governing how to calculate per-pupil allocations, including those for targeted funds for assessment, technology and kindergarten to grade 2 programs.

(2) For students attending public charter schools, the payments for public charter schools must be made pursuant to section 15683-B, subsection 6.

(3) For transportation expenses, the transportation operating allocation must be the statewide per-pupil essential programs and services transportation operating allocation multiplied by pupil counts determined under section 15683-B, subsection 2, paragraph A multiplied by the percentage established by the commission for the public charter school based on the cost of transportation services provided by the public charter school to the student, but not to exceed 100%.

(4) The department shall pay to the public charter school any additional allocation assigned to the public charter school for gifted and talented students pursuant to section 15681-A, subsection 5 in the year in which the allocation is assigned.

Sec. 15. 20-A MRSA §3252, sub-§1, as repealed and replaced by PL 1985, c. 490, §3, is amended to read:

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 a public or private elementary schools elsewhere in the State school approved for tuition purposes under section 2951.

Sec. 16. 20-A MRSA §3252, sub-§6, as repealed and replaced by PL 1985, c. 490, §3, is amended to read:

6. Studies outside the country. The commissioner may, ~~in his~~ in the commissioner's 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. 17. 20-A MRSA §3253-A, sub-§1, as enacted by PL 1985, c. 490, §5, is amended to read:

1. Secondary students. Any eligible resident student who may be judged by the commissioner to be qualified may attend as a tuition student any public or private secondary school in the State approved for tuition purposes under section 2951 to which ~~he or she~~ that tuition student may gain entrance.

Sec. 18. 20-A MRSA §3646, first ¶, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

As used in this section, the term "initial aid" ~~shall include~~ includes Maine and New Hampshire financial assistance with respect to a capital project, or the means of financing a capital project, ~~which that~~ is available in connection with construction costs of a capital project or ~~which that~~ is available at the time indebtedness is incurred to finance the project. With-

out limiting the generality of the foregoing definition, initial aid ~~shall specifically include~~ includes a New Hampshire state guarantee under RSA 195-B with respect to bonds or notes ~~and Maine construction aid under Title 20, section 3457.~~ As used in this section, the term "long-term aid" ~~shall include~~ includes Maine and New Hampshire financial assistance ~~which that~~ is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality of the foregoing definition, long-term aid ~~shall specifically include~~ includes New Hampshire school building aid under RSA 198 ~~and Maine school building aid under Title 20, section 3457.~~ For the purpose of applying for, receiving and expending initial aid and long-term aid, an interstate district ~~shall~~ must be deemed a native school district by each state, subject to the following provisions.

Sec. 19. 20-A MRSA §4003-A, as enacted by PL 2005, c. 2, Pt. D, §16 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is repealed.

Sec. 20. 20-A MRSA §4252, sub-§3, as enacted by PL 1983, c. 576, §1, is amended to read:

3. Screening. Establish or expand preschool or early childhood screening programs, including psychometrically valid English language proficiency screening for potential English learners as defined in section 15672, subsection 7-B as determined by a language use survey developed by the department, and the development of individualized educational prescription based on the findings of the screening;

Sec. 21. 20-A MRSA §4803, sub-§5, as repealed and replaced by PL 1985, c. 41, §2, is repealed.

Sec. 22. 20-A MRSA §6213, sub-§7, ¶C, as enacted by PL 2011, c. 446, §2, is amended to read:

C. Provision of services, including, but not limited to, special education services; services for gifted and talented students; services for ~~students with limited English proficiency learners as defined in section 15672, subsection 7-B;~~ educational services for students at risk of academic failure, expulsion or dropping out; and support services provided by the Department of Health and Human Services or the Department of Corrections to a state ward or to a state agency client;

Sec. 23. 20-A MRSA §6403-A, sub-§4, as enacted by PL 1985, c. 258, §4, is amended to read:

4. Special contract for services. The school board may provide school nurse services through special agreements with a public health agency or with an individual registered professional nurse. All nurses who serve as school nurses under those agreements ~~shall~~ must be registered professional nurses who meet applicable certification requirements.

Sec. 24. 20-A MRSA §8351, as amended by PL 2005, c. 2, Pt. D, §24 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is further amended to read:

§8351. State aid for career and technical education centers and career and technical education regions

State aid for centers and regions must be administered in accordance with chapters 606-B and 609 ~~and Title 20, section 3457.~~

Sec. 25. 20-A MRSA §8352, sub-§2, as amended by PL 1991, c. 518, §9, is further amended to read:

2. Budget limitation. This section does not apply to construction grants made under chapter 609 ~~and Title 20, section 3460.~~

Sec. 26. 20-A MRSA §8457, sub-§1, as amended by PL 2011, c. 679, §20, is further amended to read:

1. General powers and duties. A cooperative board has all of the powers and duties of a school board as provided in section 1001, subsections 1, 2, 4 to 7; ~~and 11-A and 12 to 19~~; section 1002; section 1256, subsections 1, 2 and 4 to 7; section 1257; sections 1313 to 1315; section 4801; section 13201; and section 13202. For such purposes, references in those sections to "school administrative unit," "administrative unit," "school unit," "unit," "school administrative district," "district," "regional school unit," "RSU," "alternative organizational structure" or "AOS" mean career and technical education region; references in those sections to "school board," "school committee," "board," "board of directors" or "directors" mean cooperative board; references in those sections to "director" mean a member of a cooperative board; and references in those sections to "they" mean either, as appropriate in the context, cooperative board or members of the cooperative board.

Sec. 27. 20-A MRSA §15005, sub-§3, as amended by PL 2011, c. 678, Pt. C, §3, is further amended to read:

3. Return required. An apportionment provided in this chapter, chapters 505 and 606-B, 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.

Sec. 28. 20-A MRSA §15401, sub-§4 is enacted to read:

4. Rural school administrative unit. For purposes of allocating federal funds under the federal Every Student Succeeds Act of 2015, 20 United States Code, Chapter 70, Subchapter V, "rural school administrative unit" means a school administrative unit in which no single municipality within the school admin-

istrative unit has a population over 8,000 residents for purposes of federal funding under the Every Student Succeeds Act.

Sec. 29. 20-A MRSA §15671, sub-§1, as amended by PL 2017, c. 284, Pt. C, §15, is further amended to read:

1. State and local partnership. The State and each local school administrative unit are jointly responsible for contributing to the cost of the components of essential programs and services described in this chapter. ~~Except as otherwise provided in this subsection, for each fiscal year, the total cost of the components of essential programs and services may not exceed the prior fiscal year's costs multiplied by one plus the average personal income growth rate as defined in Title 5, section 1665, subsection 1. The Legislature, by an affirmative vote of each House, may exceed the limitations on increases in the total cost of the components of essential programs and services provided in this subsection, as long as that vote is taken upon legislation stating that it is the Legislature's intent to override the limitation for that fiscal year.~~ The state contribution to the cost of the components of essential programs and services must be made in accordance with this subsection:

A. The level of the state share of funding attributable to the cost of the components of essential programs and services must be at least 50% of eligible state and local General Fund education costs statewide, no later than fiscal year 2006-07; and

B. By fiscal year 2008-09 the state share of the total cost of funding public education from kindergarten to grade 12, as described by essential programs and services, must be 55%. Beginning in fiscal year 2005-06 and in each fiscal year until fiscal year 2008-09, the state share of essential programs and services described costs must increase toward the 55% level required in fiscal year 2008-09.

Beginning in fiscal year 2005-06 and in each fiscal year thereafter, the commissioner shall use the funding level determined in accordance with this section as the basis for a recommended funding level for the state share of the cost of the components of essential programs and services.

Sec. 30. 20-A MRSA §15672, sub-§7-B is enacted to read:

7-B. English learner. "English learner" means a student who has a primary or home language other than English, as determined by a language use survey developed by the department; who is not yet proficient in English, as determined by a state-approved English language proficiency assessment; and who satisfies the definition of an English learner under the federal Ele-

mentary and Secondary Education Act of 1965, as amended, 20 United States Code, Chapter 70.

Sec. 31. 20-A MRSA §15672, sub-§18, as enacted by PL 2003, c. 504, Pt. A, §6, is repealed.

Sec. 32. 20-A MRSA §15675, sub-§1, as amended by PL 2007, c. 539, Pt. C, §§6 to 8, is further amended to read:

1. English learners. The additional weights for school administrative units with ~~limited English proficiency students~~ learners are as follows:

A. For a school administrative unit with 15 or fewer ~~limited English proficiency students~~ learners, the unit receives an additional weight of .70 per student;

B. For a school administrative unit with more than 15 and fewer than 251 ~~limited English proficiency students~~ learners, the unit receives an additional weight of .50 per student;

C. For a school administrative unit with 251 or more ~~limited English proficiency students~~ learners, the unit receives an additional weight of .525 per student; and

Eligibility for state funds under this subsection is limited to school administrative units that are providing services to ~~limited English proficiency students~~ learners through programs approved by the department.

Sec. 33. 20-A MRSA §15683, sub-§1, ¶¶A and B, as amended by PL 2005, c. 2, Pt. D, §47 and affected by §§72 and 74 and c. 12, Pt. WW, §18, are further amended to read:

A. The product of the school administrative unit's kindergarten to grade 8 EPS per-pupil rate multiplied by the total of the kindergarten to grade 8 portions of the following pupil counts:

(1) The pupil count set forth in section 15674, subsection 1, paragraph C;

(2) The additional weight for ~~limited English proficiency students~~ learners calculated pursuant to section 15675, subsection 1; and

(3) The additional weight for economically disadvantaged students calculated pursuant to section 15675, subsection 2;

B. The product of the school administrative unit's grade 9 to 12 EPS per-pupil rate multiplied by the total of the grade 9 to 12 portion of the following pupil counts:

(1) The pupil count set forth in section 15674, subsection 1, paragraphs A, B and C;

(2) The additional weight for ~~limited English proficiency students~~ learners calculated pursuant to section 15675, subsection 1; and

(3) The additional weight for economically disadvantaged students calculated pursuant to section 15675, subsection 2;

Sec. 34. 20-A MRSA §15683-B, sub-§2, ¶C, as enacted by PL 2015, c. 54, §6, is amended to read:

C. The number of ~~limited English proficiency students~~ learners for each public charter school is the number of ~~limited English proficiency students~~ learners from the most recent October count prior to the year of funding.

Sec. 35. 20-A MRSA §15683-B, sub-§3, ¶C, as enacted by PL 2015, c. 54, §6, is amended to read:

C. The ~~limited English proficiency student~~ learner allocation, which is the pupil count pursuant to subsection 2, paragraph C multiplied by the additional weight for each ~~limited English proficiency student~~ learner pursuant to section 15675, subsection 1;

Sec. 36. 20-A MRSA §15689, sub-§11, ¶B, as amended by PL 2017, c. 284, Pt. C, §51, is further amended to read:

B. The amount of the adjustment for economically disadvantaged students is the ~~difference, but not less than zero, between the state share of the total allocation under this chapter and the amount computed as the school administrative unit's total allocation for economically disadvantaged students, multiplied by the relevant percentage in subsection 1, paragraph B.~~

Sec. 37. 20-A MRSA §15692, sub-§1, as enacted by PL 2005, c. 2, Pt. D, §62 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

1. School administrative unit. For the purposes of section 15695 and Title 20, sections 3457 to 3460, a special school district is deemed to be a school administrative unit.

Sec. 38. 20-A MRSA §15903, sub-§3, as amended by PL 2011, c. 691, Pt. B, §21, is repealed.

Sec. 39. 20-A MRSA §15908, sub-§1, as amended by PL 2011, c. 691, Pt. B, §22, is further amended to read:

1. Technical assistance. In order to provide the technical assistance required by the state board in assessing proposed school construction projects, the ~~Bureau of General Services~~ department may contract for the services of a professional engineer whenever the ~~bureau~~ department is not employing qualified personnel on a full-time basis.

Sec. 40. 20-A MRSA §15908, sub-§3, as amended by PL 2011, c. 691, Pt. B, §22, is further amended to read:

3. Life-cycle costs. The department and the Bureau of General Services may not approve the plans and specifications of a project that does not meet the requirements of Title 5, chapter 153, subchapter 1-A.

Sec. 41. 30-A MRSA §5953-C, sub-§3, as amended by PL 2007, c. 66, §1, is further amended to read:

3. Proposals; contracts. The bank shall solicit proposals from energy service companies and individual vendors of energy service products. Notwithstanding any provision of the law regarding bidding requirements, the bank shall contract with an energy service company or companies or vendor or vendors to provide energy services in municipal and school buildings under the program. Whenever the bid proposals received are substantially equivalent, the bank shall in the contract process select an in-state energy service company or vendor whose primary place of business is within this State. For public school projects, bid proposals for energy efficiency improvements must include plans and specifications that are adequate to permit review by the agencies listed under Title 20-A, section 15903, subsection 3 and that bear the stamp of a licensed professional engineer or licensed architect. ~~The agencies listed in Title 20-A, section 15903, subsection 3 shall review the plans and specifications and approve or disapprove them within a reasonable time period.~~

See title page for effective date.

CHAPTER 399

H.P. 1274 - L.D. 1792

An Act To Ensure Compliance with Federal Family First Prevention Services Legislation

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

Sec. 1. 22 MRSA §8110 is enacted to read:

§8110. Criminal history record checks for employees of children's residential care facilities

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

A. "Federal Bureau of Investigation" means the United States Department of Justice, Federal Bureau of Investigation.

B. "State Police" means the Department of Public Safety, Bureau of State Police.

2. Criminal history; information about criminal records and data obtained. The department shall obtain, in print or electronic format, criminal history record information containing a record of public criminal history record information as defined in Title 16, section 703, subsection 8, from the Maine Criminal Justice Information System, established pursuant to Title 16, section 631, and the Federal Bureau of Investigation, for any staff member of a children's residential care facility in order to comply with the federal family first prevention services legislation. For purposes of this section, "staff member" means an individual who is employed by, or has applied for and may be offered employment at, a children's residential care facility, including a contract employee or self-employed individual, whether or not the individual has direct contact with children. "Staff member" does not include a contractor performing maintenance or repairs at the children's residential care facility who does not have unsupervised access to children at the facility.

3. Fingerprint-based criminal history obtained. A staff member shall consent to and have the staff member's fingerprints taken. The State Police shall take or cause to be taken the fingerprints of a staff member who has consented under this subsection and shall forward the fingerprints to the Department of Public Safety so that the Department of Public Safety may conduct a state and national criminal history record check on the person. The Department of Public Safety shall forward the results obtained to the department. The State Police shall assess a fee set annually by the Department of Public Safety to be paid by the children's residential care facility or the staff member for each criminal history record check required to be performed under this section. Except for the portion of the payment that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police under this subsection must be paid to the Treasurer of State, who shall apply the money to the expenses of administration of this section by the Department of Public Safety.

4. Updates to information. The department may request a subsequent criminal history record check under subsection 3 on a staff member as the department determines appropriate, including continuous notifications of updated criminal history record information if a service providing notifications of updated criminal history record information becomes available.

5. Confidentiality. Information obtained pursuant to this section is confidential and may not be disseminated for purposes other than as provided in subsections 6 and 7.

6. Use of information obtained. Criminal history record information obtained pursuant to this section may be used by the department for employment pur-