

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

SECOND SPECIAL SESSION
September 29, 2021

SECOND REGULAR SESSION
January 5, 2022 to May 9, 2022

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 29, 2021

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 8, 2022

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

Augusta, Maine
2022

State. After giving public notice of a the proposed ballot question in accordance with this section, the Secretary of State shall provide a 30-day public comment period for the purpose of receiving comments on the content and form of the proposed questions to be placed on the ballot for any pending initiatives question. No later than 10 days after receiving public comments in accordance with this section and after review of those comments, the Secretary of State shall write the ballot question for any pending the initiative. An aggrieved voter may appeal the final decision of the Secretary of State under this section using the procedures for court review provided for in section 905, subsections 2 and 3.

See title page for effective date.

**CHAPTER 571
H.P. 1366 - L.D. 1845**

**An Act To Amend the
Education Statutes**

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

Sec. 1. 20-A MRSA §8, as enacted by PL 1991, c. 407, §1, is amended to read:

§8. Restructuring public schools Public school innovation

~~The~~ In order to support a culture of research and development and elevate the professionalism of the State's education practitioners, the commissioner shall encourage school administrative units to pursue an on-going process of school restructuring continuous improvement processes to identify opportunities to innovate school structures and policies as a means of more effectively meeting the learning needs and improving the academic performance of all students. The public and private postsecondary institutions of higher education in the State are urged to cooperate partner with the department, the state board and school administrative units to provide appropriate and timely professional development programs and other support services to educators employed in public schools engaged in school restructuring innovation efforts.

1. School restructuring innovation. For the purposes of this section, the term "school restructuring innovation" means the process by which schools and communities use pilot programs and make significant changes in the existing school structure, including the policies, roles, relationships, pathways and schedules that influence teaching and learning in the school. School restructuring innovation recognizes the critical educational role of technology and integrates technology and technological systems in the classroom, in school governance and in school record keeping. School restructuring innovation is based on:

- A. The development of comprehensive educational goals establishing community expectations for what all students should know, the skills they should possess, the attitude toward work and learning they should hold upon completing school and the role of the school in the community;
- B. A formal appraisal of the basic structures that govern operation of the school; and
- C. A commitment to revise the basic school structure to achieve the comprehensive educational goals.

School restructuring innovation, which is most effectively carried out at the local level, depends on community and educator involvement and approval and student participation. School restructuring innovation includes consideration of changing roles for understanding of the various roles of stakeholders, including parents, students, teachers, administrators, support staff, postsecondary education institutions and officials, and various segments of the community. It focuses on understanding and defining the root cause of challenges and innovates and tests solutions. School innovation may include a significantly broadened role for schools and school administrative units that engage in education research and development. The commissioner may designate a school administrative unit that engages in education research and development as a demonstration site.

~~School restructuring may include schools and school administrative units combining efforts to cooperatively pursue restructuring activities. When that occurs, one or more schools or units may be designated as demonstration sites.~~

2. Waiver of rules for local schools. A school administrative unit undergoing school restructuring innovation may request that the commissioner waive the application of specific rules to that unit, or to certain schools in that unit, if such action the waiver is necessary to achieve school restructuring the proposed innovation. The commissioner shall grant a waiver if the requesting unit, as determined by the commissioner, has:

- A. Demonstrated that one or more state rules prevent or seriously handicap the unit's pursuit of its restructuring innovation goals;
- B. Demonstrated that reasonable steps have been taken to provide the safeguards offered by the rules in question to allow continued educational progress by students and protect the continuity and integrity of the unit and employees of that unit;
- C. Provided evidence that the necessary resources and community and staff support are present to ensure that the restructuring innovative changes requiring the waiver stand a reasonable chance of succeeding; and

D. Informed any bargaining agent or agents representing affected school employees of the waiver request; and

~~E. Established a working relationship regarding professional development with an institution of higher education or a professional development service provider.~~

The request for the waiver must include documentation to substantiate the conditions of this subsection. If the request is denied, the commissioner shall provide the reasons for denying the request to the school unit.

3. Waiver of rules for educator preparation programs. In order to prepare educators to work in ~~restructuring~~ innovative schools, an educator preparation program may request that the state board waive the application of specific rules governing approval of that program. The state board shall grant waiver requests if, in the board's opinion, the program has:

A. Demonstrated that the rules for which a waiver is requested prevent or seriously handicap the program in its pursuit of a plan to meet the educational needs of its students and the staffing needs of ~~restructuring~~ innovative schools;

B. Demonstrated that reasonable steps have been taken to provide the safeguards offered by the rules in question to allow continued educational progress by students and protect the continuity and integrity of the program and employees of that program;

C. Provided evidence that the necessary resources and support from the governing body and staff of an institution of higher education are present to ensure that the changes requiring the waiver stand a reasonable chance of succeeding;

D. Informed any bargaining agent or agents representing affected program employees of the waiver request; and

E. Developed service, research and teaching relationships with one or more ~~restructuring~~ innovative public schools.

The request for the waiver must include documentation to substantiate the conditions of this subsection. If the request is denied, the state board shall communicate the reasons for denying the request to the petitioning program.

Sec. 2. 20-A MRSA §4502, sub-§2, as amended by PL 2009, c. 313, §1, is further amended to read:

2. Curriculum requirements. Schools must meet all curriculum requirements established in chapter 207-A. Schools that offer public preschool programs shall demonstrate curriculum practice for those programs that implements the Maine early ~~childhood~~ learning ~~guidelines~~ and development standards established

by the department and is appropriate for the age and development level of the children.

Sec. 3. 20-A MRSA §4707, as enacted by PL 1989, c. 80, is amended to read:

§4707. Instruction in Braille and ~~Nemeth Code~~ Unified English Braille

Schools may offer instruction in Braille and ~~Nemeth Code~~ Unified English Braille as part of the school curriculum. ~~When~~ If Braille or ~~Nemeth Code~~ Unified English Braille courses are offered, schools shall determine appropriate credit for completion of those courses.

Sec. 4. 20-A MRSA §4709, sub-§1, ¶A, as enacted by PL 1991, c. 292, §1, is amended to read:

A. "Braille" means the system of reading and writing through touch, ~~commonly known as standard English Braille.~~

Sec. 5. 20-A MRSA §4721, sub-§1, as amended by PL 2021, c. 190, §3, is further amended to read:

1. Comprehensive program of instruction. A secondary school shall provide a comprehensive program of instruction ~~of at least 2 years in length,~~ which must meet the requirements of this chapter and the parameters for essential instruction and graduation diploma requirements established under section 6209. The program must include instruction for all students in life and career readiness, English language arts, health education and physical education, mathematics, technology, science and technology and engineering, social studies, visual and performing arts and world languages.

Sec. 6. 20-A MRSA §4722, sub-§1, as amended by PL 2019, c. 202, §1, is further amended to read:

1. Minimum instructional requirements. The instructional requirements leading to a high school diploma must ~~include a minimum 4 year~~ be part of a program of at least 4 years that meets the requirements established by this section and any other instructional requirements established by the commissioner and the school board.

Sec. 7. 20-A MRSA §4722, sub-§2, as amended by PL 2019, c. 202, §1, is further amended to read:

2. ~~Required subjects~~ Diploma requirements. Instruction in the following subjects must be provided in separate ~~or,~~ integrated study programs, and students or applied learning programs. Students may demonstrate achievement of the standards through multiple pathways, including those identified in section 4703, and by evidence documented by course and learning experiences using multiple measures, including examinations, quizzes, portfolios, performances, exhibitions,

projects and community service. A diploma indicates that the graduate has completed the requirements described in this section and is ready to enter a postsecondary education program or a career as a clear and effective communicator, a self-directed and lifelong learner, a creative and practical problem solver, a responsible and involved citizen and an informed and integrative thinker. Students must complete the following minimum requirements for a high school diploma:

- A. English--4 years or the equivalent in standards achievement;
- B. Social studies and history, including American history, government, civics and personal finance--2 years or the equivalent in standards achievement;
- C. Mathematics--2 years or the equivalent in standards achievement;
- D. Science, including at least one year of laboratory study--2 years or the equivalent in standards achievement; and
- E. Fine arts, which may include art, music, forensics or drama--one year or the equivalent in standards achievement.

Sec. 8. 20-A MRSA §4722, sub-§2-A, as amended by PL 2019, c. 202, §1, is repealed.

Sec. 9. 20-A MRSA §4722, sub-§2-B, as enacted by PL 2019, c. 202, §1, is repealed.

Sec. 10. 20-A MRSA §4722, sub-§3, as amended by PL 2019, c. 202, §1, is further amended to read:

3. Satisfactory completion. A secondary school student may earn a diploma ~~may be awarded to a secondary school if the student who~~ has satisfactorily completed all diploma requirements in accordance with the academic standards of the school administrative unit and this section. ~~All secondary school students must achieve the content standards of the parameters for essential instruction and graduation requirements established pursuant to section 6209. A school administrative unit shall award a high school diploma to a child with a disability, as defined in section 7001, subsection 1-B, who satisfies the local diploma requirements in the manner specified by the child's individualized education plan must be awarded a high school diploma. Career and technical students may, consistent with the approval of the commissioner and the local school board, satisfy the requirements of subsection 2 through separate or integrated study within the career and technical school curriculum, including through courses provided pursuant to section 8402 or 8451-A, on the approval of the commissioner and the local school board.~~

Sec. 11. 20-A MRSA §6213, sub-§10, ¶D, as enacted by PL 2011, c. 446, §2, is amended to read:

- D. The applicable federal statutes and regulations pertaining to student assessment as required by the

~~federal No Child Left Behind Act of 2001 Every Student Succeeds Act of 2015, 20 United States Code, Chapter 70; and~~

Sec. 12. 20-A MRSA §6801-A, sub-§1, as enacted by PL 1983, c. 859, Pt. A, §§24 and 25, is amended to read:

1. Authority to withhold state subsidy. If, after giving due notice and an opportunity for a hearing, the commissioner finds that a school administrative unit or career and technical education region is not in compliance with the reporting, program or other requirements of this Title, the commissioner may withhold state subsidy from that unit or region. The withholding ~~shall~~ may continue only as long as necessary to achieve compliance.

Sec. 13. 20-A MRSA §6801-A, sub-§2, as amended by PL 1989, c. 414, §19 and c. 910, §1, is further amended to read:

2. Authority to withhold state subsidy until reports are received. Notwithstanding any other provision of law, if a school administrative unit or career and technical education region has failed to file the reports required by this Title in the format and within the time periods specified, the commissioner may withhold state subsidy payments until these reports are received.

Sec. 14. 20-A MRSA §6801-A, sub-§3, as amended by PL 1989, c. 414, §19, is further amended to read:

3. Action by Attorney General. If compliance cannot be achieved by withholding subsidy payment, or if withholding would be an inappropriate or unavailable remedy, or if a school ~~or~~ school unit ~~which is not eligible for state subsidy or career and technical education region~~ is out of compliance with this Title and that school, school unit or career and technical education region is not eligible for state subsidy, the commissioner may refer the matter to the Attorney General for action. The Attorney General may seek injunctive relief to enjoin activities not in compliance with the governing law or seek any other remedy authorized by law.

Sec. 15. 20-A MRSA §6801-A, sub-§5, as amended by PL 1985, c. 797, §39, is further amended to read:

5. Complaint process. ~~A complaint that alleges person alleging that a school administrative unit or career and technical education region is not in compliance with the requirements of this Title or of rules adopted by the department shall be filed~~ may file a complaint pursuant to the requirements for a petition under section 258-A.

Sec. 16. 20-A MRSA §15005, sub-§1, as repealed and replaced by PL 1991, c. 824, Pt. A, §37, is amended to read:

1. Apportionments. ~~Apportionments Unless otherwise required by law, the State shall pay apportionments to school administrative units, career and technical education regions and private schools, unless specifically directed by statute, must be made annually commencing in July in the following manner. An~~ The State shall pay an amount not to exceed 1/12 of the subsidy ~~must be paid~~ each month no later than the last day of the month. ~~Any~~ The State shall pay any balance ~~must be paid~~ within 7 days after the end of the fiscal year. If the ~~State pays the~~ balance of state subsidy for a fiscal year ~~is paid~~ after the end of the fiscal year, ~~the a school administrative unit, career and technical education region or private school may record the final payment may be recorded~~ as an account receivable due from the State in that fiscal year.

Sec. 17. 20-A MRSA §15671, first ¶, as amended by PL 2017, c. 284, Pt. C, §14, is further amended to read:

Essential programs and services are those educational resources that are identified in this chapter necessary to ensure the opportunity for all students to meet the standards in the 8 content standard subject areas and goals of the system of learning results established in chapter 222. In order to achieve this system of learning results, school funding based on essential programs and services must be available in all schools on an equitable basis. Essential programs and services utilize resources that are currently provided or could be adapted to implement a system of learning results, as well as additional resources, including federal funds, that are ~~also~~ needed to ensure that these programs and services are available to all students. These essential programs and services ~~must~~ provide the basis for the system of school funding ~~no later than 2007-08~~. School funding must be adequate to fully provide for all of the staffing and other material resource needs of the essential programs and services identified by the Legislature.

Sec. 18. 20-A MRSA §15671, sub-§1, as amended by PL 2019, c. 398, §29, 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. 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~~ Beginning in fiscal year 2021-22, and in each subsequent fiscal year, 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 is~~ 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~~ 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. 19. 20-A MRSA §15671, sub-§1-A, as amended by PL 2015, c. 389, Pt. C, §2, is further amended to read:

1-A. State funding for kindergarten to grade 12 public education. ~~Beginning in fiscal year 2017-18 2022-23 and in each fiscal year thereafter until, if the annual target under subsection 7, paragraph B for the state share percentage of the total cost of funding public education from kindergarten to grade 12 reaches for that fiscal year is less than 55% pursuant to subsection 7, paragraph B, the State shall increase the state share percentage of the funding for the cost of essential programs and services by at least one percentage point per year over the percentage of the previous year and the department, in allocating funds, shall make this increase in funding a priority. For those fiscal years that the funding appropriated or allocated for the cost of essential programs and services is less than 55% and is not sufficient to increase the state share percentage of the total cost of funding public education from kindergarten to grade 12 by at least one percentage point, no new programs or initiatives may be established for kindergarten to grade 12 public education within the department that would divert funds that would otherwise be distributed as general purpose aid for local schools pursuant to subsection 5.~~

Sec. 20. 20-A MRSA §15671, sub-§6, as amended by PL 2017, c. 284, Pt. C, §17, is further amended to read:

6. Targeted funds. Funds for technology, implementation of a standards-based system and the costs of additional investments in educating children in kindergarten to grade 2 as described in section 15681 must be provided as targeted allocations. ~~School administrative units shall submit a plan for the use of these funds and receive funding based on approval of the plan by the commissioner.~~ State funds for extended learning provided above the basic economically disadvantaged student adjustment in section 15675, subsection 2 must also be provided as targeted allocations and restricted to approved programs that benefit economically disadvantaged students.

Sec. 21. 20-A MRSA §15672, sub-§1-A, as enacted by PL 2005, c. 2, Pt. D, §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is repealed.

Sec. 22. 20-A MRSA §15672, sub-§1-C, as amended by PL 2005, c. 519, Pt. J, §1, is further amended to read:

1-C. Bus purchase costs. "Bus purchase costs" includes expenditures for bus purchase payments approved by the commissioner and made during the year prior to the allocation year. ~~For bus purchases approved in fiscal year 2004-05 only, 50% of first year approved payments must be allocated in fiscal year 2006-07 and 50% of first year approved payments must be allocated in fiscal year 2007-08.~~

Sec. 23. 20-A MRSA §15672, sub-§1-D, as amended by PL 2017, c. 171, §12, is repealed.

Sec. 24. 20-A MRSA §15672, sub-§2-A, ¶B, as amended by PL 2017, c. 284, Pt. VVVVV, §9, is further amended by repealing subparagraph (1).

Sec. 25. 20-A MRSA §15672, sub-§2-A, ¶B, as amended by PL 2017, c. 284, Pt. VVVVV, §9, is further amended by amending subparagraph (2), division (a) to read:

(a) A school administrative unit with state-approved need for instructional space may lease temporary or interim space, with state support, for a maximum of 5 years. A school administrative unit may appeal to the commissioner if this limitation presents an undue burden. When making a determination on a school administrative unit's request for relief based on undue burden, the commissioner may consider, ~~but is not limited to considering~~, the following:

- (i) Fiscal capacity;
- (ii) Enrollment demographics; ~~and~~
- (iii) Unforeseen circumstances not within the control of the appealing school administrative unit; ~~and~~
- (iv) Other relevant factors.

An extension granted by the commissioner beyond the 5-year maximum for state support is limited to a period of one year. ~~Any~~ An additional request for ~~extensions~~ an extension must be submitted and reviewed on an annual basis. The commissioner's decision is final.

Sec. 26. 20-A MRSA §15672, sub-§9, as amended by PL 2005, c. 2, Pt. D, §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is repealed.

Sec. 27. 20-A MRSA §15672, sub-§23, as amended by PL 2017, c. 381, §16, is repealed and the following enacted in its place:

23. Property fiscal capacity. "Property fiscal capacity" means the average of the certified state valuations for the 3 most recent years prior to the most recently certified state valuation or the certified state valuation for the most recent prior year, whichever is lower.

Sec. 28. 20-A MRSA §15680, sub-§2, as enacted by PL 2003, c. 504, Pt. A, §6, is repealed.

Sec. 29. 20-A MRSA §15680, sub-§3, as enacted by PL 2003, c. 504, Pt. A, §6, is amended to read:

3. Fiscal year 2006-07 and beyond. For fiscal year 2006-07 and for each subsequent year, the commissioner shall recalculate the per-pupil amounts for additional cost components under subsection 1 using the amounts approved by the state board ~~under subsection 2 for the previous year~~ as a base and including appropriate trends in the Consumer Price Index or other comparable index.

Sec. 30. 20-A MRSA §15680-A, as amended by PL 2019, c. 213, §§1 and 2, is further amended to read:

§15680-A. System administration allocation

~~Beginning in fiscal year 2017-18, the commissioner shall determine~~ The system administration allocation in accordance with this section is \$135 per pupil based on the number of subsidizable students determined pursuant to section 15674.

~~**3. Fiscal year 2019-20.** For fiscal year 2019-20, the system administration allocation is \$141 per pupil. Of this amount, \$47 must be allocated to the school administrative unit for system administration and \$94 must be allocated as a targeted amount to school administrative units that have established regionalized administrative services pursuant to chapter 123.~~

~~**4. Beginning in fiscal year 2020-21.** Beginning in fiscal year 2020-21, the system administration allocation is \$135 per pupil.~~

Sec. 31. 20-A MRSA §15681-A, sub-§4, as amended by PL 2017, c. 284, Pt. C, §40, is repealed.

Sec. 32. 20-A MRSA §15683, first ¶, as amended by PL 2005, c. 2, Pt. D, §47 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is further amended to read:

For each school administrative unit, that unit's total operating allocation is the base total set forth in subsection 1 ~~as adjusted in accordance with subsection 2~~ and including the total amount of other subsidizable costs as described in section 15681-A.

Sec. 33. 20-A MRSA §15689, sub-§12, as enacted by PL 2011, c. 655, Pt. C, §10, is repealed.

Sec. 34. 20-A MRSA §15689, sub-§13, as amended by PL 2017, c. 284, Pt. C, §52, is repealed.

Sec. 35. 20-A MRSA §15689-B, sub-§7-A, as enacted by PL 2007, c. 539, Pt. C, §14, is amended to read:

7-A. Penalty for late submission of required data. Notwithstanding any other provision of this Title, the commissioner may ~~implement the following~~ assess a subsidy penalty for a school administrative unit or career and technical education region that is not in compliance with subsection 7. ~~If a school administrative unit has not filed the required data pursuant to subsection 7 within 3 months of the due date, a penalty in an amount equal to 1% of that unit's or region's monthly subsidy check times the number of months past due is assessed.~~

Sec. 36. 20-A MRSA §15689-B, sub-§9 is enacted to read:

9. Career and technical education region. This section applies to a career and technical education region in the same manner as to a school administration unit.

See title page for effective date.

CHAPTER 572

S.P. 606 - L.D. 1854

An Act To Amend the Finance Authority of Maine Act To Allow for Remote Meetings

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

Whereas, Public Law 2021, chapter 290, An Act Regarding Remote Participation in Public Proceedings, does not apply to public bodies such as the Finance Authority of Maine to which specific statutory provisions for remote participation already apply; and

Whereas, the Finance Authority of Maine prefers to have the new law apply to its proceedings instead of the older, more limited statute governing emergency board meetings in certain cases; and

Whereas, there is a need to have in place a law that governs remote participation in public proceedings of the Finance Authority of Maine after the termination of the state of emergency declared by the Governor pursuant to the Maine Revised Statutes, Title 37-B, section 742 in response to the public health emergency caused by the spread of the novel coronavirus disease referred to as COVID-19; and

Whereas, members of the Finance Authority of Maine inhabit various parts of the State and may need

or wish, based on public health or other considerations such as severe weather, to conduct business remotely as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 10 MRSA §971, as amended by PL 1995, c. 117, Pt. C, §1, is further amended to read:

§971. Actions of the members

Seven members of the authority constitute a quorum of the members. The affirmative vote of the greater of 5 members, present and voting, or a majority of those members present and voting is necessary for any action taken by the members. ~~No~~ A vacancy in the membership of the authority may ~~may~~ does not impair the right of the quorum to exercise all powers and perform all duties of the members.

~~Notwithstanding any other provision of law, in a situation determined by the chief executive officer to be an emergency requiring action of the members on not more than 3 days' oral notice, an emergency meeting of the members may be conducted by telephone in accordance with the following.~~

~~1. Placement of call.~~ A conference call to the members must be placed by ordinary commercial means at an appointed time.

~~2. Record of call.~~ The authority shall arrange for recordation of the conference call when appropriate and prepare minutes of the emergency meeting.

~~3. Notice of emergency meeting.~~ Public notice of the emergency meeting must be given in accordance with Title 1, section 406 and that public notice must include the time of the meeting and the location of a telephone with a speakerphone attachment that enables all persons participating in the telephone meeting to be heard and understood and that is available for members of the public to hear the business conducted at the telephone meeting.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 7, 2022.