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An Act To Further the Implementation of the Essential Programs and Services Funding Act

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

Sec. 1. 20-A MRSA §1403, sub-§4, ¶A, as amended by PL 1987, c. 395, Pt. A, §59, is further amended to read:

A. The commissioner, after consultation with the district board of directors, municipal officers of the participating municipalities, and representatives of the group ~~which~~that filed the petition with the municipality, shall direct the municipal officers of each municipality to select representatives to a committee as follows: One member from the municipal officers, the group filing the petition; and one member from the general public; and one member from the group filing the petition if the group is represented in the municipality, otherwise an additional one member of the general public. The commissioner shall also direct the directors representing each municipality to select one member of the board of directors who represents that municipality to serve on the committee. The municipal officer and the member of the board of directors shall serve on the committee only so long as they hold their respective offices. Vacancies will be filled by the municipal officers and board of directors. The chairman of the board of directors shall call a meeting of the committee within 30 days of the filing of the notice of the vote in subsection 3. The chairman of the board shall open the meeting by presiding over the election of a chairman of the committee. The responsibility for the preparation of the agreement ~~shall rest~~rests with the committee, subject to the approval of the commissioner. The committee may draw upon the resources of the department for information not readily available at the local level and employ competent advisors within the fiscal limit authorized by the voters. The agreement ~~shall~~must be submitted to the commissioner within 90 days after the committee is formed. Extensions of time may be granted by the commissioner upon the request of the committee.

(1) The agreement ~~shall~~must contain provisions to provide educational services for all students in the district. The agreement ~~shall~~must provide that during the first year following the dissolution, students may attend the school they would have attended if the district had not dissolved. The allowable tuition rate for students sent from one municipality to another in the former school administrative district ~~shall~~must be determined under section 5805, ~~subsection 1, except that it shall not be subject to the state per pupil average limitation in section 5805, subsection 2~~5805-A.

(2) The agreement ~~shall~~must establish the dissolution to take effect at the end of the district's fiscal year.

(3) The agreement ~~shall~~must establish that the dissolution will not cause a need within 5 years from the effective date of dissolution for school construction projects ~~which~~that would be eligible for state funds. This limitation does not apply where a need for school construction existed prior to the effective date of the dissolution or where a need for school construction would have arisen even if the district had not dissolved.

(4) The agreement ~~shall~~must establish how transportation services will be provided.

(5) The agreement ~~shall~~must provide for administration of the new administrative units, which should not include the creation of new supervisory units if at all possible.

(6) The agreement ~~shall~~must make provision for the distribution of financial commitments arising from outstanding bonds, notes and any other contractual obligations that extend beyond the proposed date of dissolution.

(7) The agreement ~~shall~~must make appropriate provision for the distribution of any outstanding financial commitments to the superintendent of the school administrative district.

(8) The agreement ~~shall~~must provide for the continuation and assignment of collective bargaining agreements as they apply to the new or reorganized school administrative unit for the duration of those agreements and ~~shall~~must provide for the continuation of representational rights.

(9) The agreement ~~shall~~must provide for the continuation of continuing contract rights under section 13201, subsection 2.

(10) The agreement ~~shall~~must provide for the disposition of all real and personal property and other monetary assets.

(11) The agreement ~~shall~~must provide for the transition of administration and governance of the schools to properly elected governing bodies of the newly created administrative units and ~~shall~~must provide that the governing bodies ~~shall not be~~are elected simultaneously with the vote on the article to dissolve unless the commissioner finds there are extenuating circumstances ~~which~~that necessitate simultaneous elections.

Sec. 2. 20-A MRSA §2103, sub-§4, ¶A, as enacted by PL 1991, c. 864, §1, is amended to read:

A. After consultation with the school committees, municipal officers of the participating municipalities and representatives of the group that filed the petition with the municipality, the commissioner shall direct the municipal officers of each municipality to select representatives to a dissolution committee as follows: one member from the municipal officers; one member from the general public; and one member from the group filing the petition if the group is represented in the municipality, otherwise an additional member of the general public. The commissioner shall also direct the school committee representing each municipality to select one school committee member to serve on the committee. The municipal officer and the members of the school committees serve on the committee only as long as they hold their respective offices. Vacancies must be filled by the municipal officers and school committees. The school committee chair from the municipality where the petition has passed shall call a meeting of the committee within 30 days of the filing of the notice of the vote in subsection 3. The chair of that school committee shall open the meeting by presiding over the election of a chair of the committee. The responsibility for the preparation of the agreement rests with the committee, subject to the approval of the commissioner. The committee may draw on the resources of the department for information not readily available at the local level and employ competent advisors within the fiscal limit authorized by the voters. The agreement must be submitted to the commissioner within 90 days after the committee is formed. Extensions of time may be granted by the commissioner on the request of the committee. The agreement must:

- (1) Contain provisions to provide educational services for all students in the union school. The agreement must provide that during the first year following the dissolution, students may attend the school they would have attended if the union school had not dissolved. The allowable tuition rate for students sent from one municipality to another in the former union school must be determined under section 5805, subsection 1, except that it is not subject to the state per pupil average limitation in section 5805, subsection 25805-A;
- (2) Provide that the dissolution take effect at the end of the union school's fiscal year;
- (3) Establish that the dissolution may not cause a need within 5 years from the effective date of dissolution for school construction projects that would be eligible for state funds. This limitation does not apply when a need for school construction existed prior to the effective date of the dissolution or when a need for school construction would have arisen even if the union school had not dissolved;
- (4) Establish how transportation services will be provided;
- (5) Provide for administration of the new administrative units, which should not include the creation of new supervisory units if possible;

- (6) Provide for the distribution of financial commitments arising from outstanding bonds, notes and any other contractual obligations that extend beyond the proposed date of dissolution;
- (7) Provide appropriately for the distribution of any outstanding financial commitments to the superintendent of the union school;
- (8) Provide for the continuation and assignment of collective bargaining agreements as they apply to the new or reorganized school administrative unit for the duration of those agreements and provide for the continuation of representational rights;
- (9) Provide for the continuation of continuing contract rights under section 13201;
- (10) Provide for the disposition of all real and personal property and other monetary assets; and
- (11) Provide for the transition of administration and governance of the schools to properly elected governing bodies of the newly created administrative units and provide that the governing bodies may not be elected simultaneously with the vote on the article to dissolve unless the commissioner finds that extenuating circumstances necessitate simultaneous elections.

Sec. 3. 20-A MRSA §3252, sub-§4, as repealed and replaced by PL 1985, c. 490, §3, is amended to read:

4. Tuition. ~~The Beginning with the 2007-2008 school year, 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~~5804-A or 7302 in an amount agreed upon between the commissioner and the school board of the unit.

Sec. 4. 20-A MRSA §3252, sub-§4-A, as amended by PL 2005, c. 635, §1, is repealed.

Sec. 5. 20-A MRSA §3253-A, sub-§3, as amended by PL 1985, c. 603, §1 and PL 2005, c. 397, Pt. D, §3, is further amended to read:

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,~~5805-A, 5806-A, 5809 or 7302 for the receiving school for nonresident students enrolled in secondary schools or special education or career and technical education programs, provided that the student maintains a satisfactory standard of department and scholarship.

Sec. 6. 20-A MRSA §3253-A, sub-§3-A, as amended by PL 2005, c. 635, §2, is repealed.

Sec. 7. 20-A MRSA §3304, sub-§1-A, as amended by PL 2005, c. 115, §1, is further amended to read:

1-A. Charges. The per pupil tuition charge must be an amount equal to the state average expenditure per elementary pupil during the preceding year, as determined annually by the commissioner pursuant to section 5804~~5804-A~~, or the receiving school administrative unit's actual expenditure per elementary pupil for the preceding year as calculated by the commissioner, whichever is less.

Sec. 8. 20-A MRSA §5801-A is enacted to read:

§ 5801-A. Definitions

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

1. Allocation year. "Allocation year" has the same meaning as in section 15672, subsection 1.

2. Attending economically disadvantaged students. "Attending economically disadvantaged students" means the number of economically disadvantaged students for each unit as determined by multiplying the number of attending pupils in the most recent calendar year by the most recent available elementary free or reduced-price meals percentage based on attending students times the weight established for economically disadvantaged students in section 15675, subsection 2. The elementary free or reduced-price meals percentage may be applied to determine the number of economically disadvantaged students in the unit's secondary grades.

3. Attending limited English proficiency students. "Attending limited English proficiency students" means the most recent number of attending limited English proficiency students in the most recent calendar year times the weights established for limited English proficiency students in section 15675, subsection 1.

4. EPS per-pupil rate. "EPS per-pupil rate" has the same meaning as in section 15672, subsection 7-A.

Sec. 9. 20-A MRSA §5802-A, as enacted by PL 1989, c. 916, §1 and amended by PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. 10. 20-A MRSA §5804, as amended by PL 1997, c. 787, §4, is repealed.

Sec. 11. 20-A MRSA §5804-A is enacted to read:

§ 5804-A. Elementary school students; public schools

Beginning with the 2007-2008 school year, tuition charges for elementary school students in public schools are governed by the following:

1. Computation of tuition rate. The tuition rate at a public elementary school must be determined as follows:

A. The total elementary tuition amount is the sum of the following:

- (1) The elementary EPS per-pupil rate for each school administrative unit times the greater of:
 - (a) The average of the 2 elementary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding; and
 - (b) The average of the 6 elementary attending pupil counts for April 1st and October 1st of the 3 most recent calendar years prior to the year of funding;
- (2) The elementary EPS per-pupil rate for each school administrative unit times the number of elementary attending economically disadvantaged students;
- (3) The elementary EPS per-pupil rate for each school administrative unit times the number of elementary attending limited English proficiency students;
- (4) The elementary per-pupil rate established for implementing a standards-based system pursuant to section 15681 times the average of the 2 elementary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding;
- (5) The elementary per-pupil rate established for technology resources pursuant to section 15681 times the average of the 2 elementary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding; and
- (6) For kindergarten to grade 2 students as defined in section 15672, subsection 16, the elementary EPS per-pupil rate for each school administrative unit times the number of attending kindergarten to grade 2 students times the weight established for kindergarten to grade 2 students in section 15675, subsection 3.

Beginning with the 2008-2009 school year, amounts determined in subparagraphs (4), (5) and (6) may only be included if the attending school is eligible to receive targeted funds pursuant to section 15681.

B. Adjustments to the total elementary tuition amount must be made by multiplying the amount calculated pursuant to paragraph A by the sum of the following:

- (1) A 5% adjustment for those costs not recognized by the Essential Programs and Services Funding Act;

(2) A 5% adjustment for those school administrative units that have eligible isolated small schools costs pursuant to section 15683, subsection 1, paragraph F; and

(3) A percentage adjustment, not to exceed 5%, equivalent to the percentage that a school administrative unit exceeds 5% over the local cost share expectation in the Essential Programs and Services Funding Act as described in section 15671-A.

C. The adjusted total elementary tuition amount is the sum of the amounts calculated pursuant to paragraphs A and B.

D. The per pupil tuition rate for each school administrative unit is the adjusted total elementary tuition amount in paragraph C divided by the average of the 2 elementary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding.

Sec. 12. 20-A MRSA §5804-B is enacted to read:

§ 5804-B. Elementary school students; private schools

Beginning with the 2007-2008 school year, the tuition payment to a private school for an elementary school student may not exceed the statewide average per student rate in all public elementary schools as computed in section 5804-A.

Sec. 13. 20-A MRSA §5805, as amended by PL 1997, c. 787, §5 and PL 2005, c. 397, Pt. O, §3, is repealed.

Sec. 14. 20-A MRSA §5805-A is enacted to read:

§ 5805-A. Secondary school students; public schools

Beginning with the 2007-2008 school year, tuition charges for secondary school students in public schools are governed by the following.

1. Computation of tuition rate. The tuition rate at a public secondary school must be determined as follows.

A. The total secondary tuition amount is the sum of the following:

(1) The secondary EPS per-pupil rate for each school administrative unit times the greater of:

(a) The average of the 2 secondary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding; and

(b) The average of the 6 secondary attending pupil counts for April 1st and October 1st of the 3 most recent calendar years prior to the year of funding;

(2) The secondary EPS per-pupil rate for each school administrative unit times the number of secondary attending economically disadvantaged students;

(3) The secondary EPS per-pupil rate for each school administrative unit times the number of secondary attending limited English proficiency students;

(4) The secondary per-pupil rate established for implementing a standards-based system pursuant to section 15681 times the average of the 2 secondary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding; and

(5) The secondary per-pupil rate established for technology resources pursuant to section 15681 times the average of the 2 secondary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding.

Beginning with the 2008-2009 school year, amounts determined in subparagraphs (4) and (5) may only be included if the attending school is eligible to receive targeted funds pursuant to section 15681.

B. Adjustments to the total secondary tuition amount must be made by multiplying the amount calculated pursuant to paragraph A by the sum of the following:

(1) A 5% adjustment for those costs not recognized by the Essential Programs and Services Funding Act;

(2) A 5% adjustment for those school administrative units that have eligible isolated small schools costs pursuant to section 15683, subsection 1, paragraph F; and

(3) A percentage adjustment, not to exceed 5%, equivalent to the percentage that a school administrative unit exceeds 5% over the local cost share expectation in the Essential Programs and Services Funding Act as described in section 15671-A.

C. The adjusted total secondary tuition amount is the sum of the amounts calculated pursuant to paragraphs A and B.

D. The per pupil tuition rate for each school administrative unit is the adjusted total secondary tuition amount in paragraph C divided by the average of the 2 secondary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the year of funding.

Sec. 15. 20-A MRS §5806, as amended by PL 1987, c. 816, Pt. KK, §16, is repealed.

Sec. 16. 20-A MRS §5806-A is enacted to read:

§ 5806-A. Secondary school students; private schools

Beginning with the 2007-2008 school year, tuition charged for secondary school students is governed by this section.

1. Private schools. The tuition payment to a private school may not exceed the sum of the following:

A. The statewide average per student rate in all public secondary schools as computed in section 5805-A;

B. A per student amount for teacher retirement. The per student amount for teacher retirement must be computed by dividing the annual employer's share for teacher retirement by the number of attending students; and

C. A per student amount for the insured value factor. The insured value factor must be computed by dividing 5% of the insured value of school buildings and equipment by the average of the 2 secondary attending pupil counts for April 1st and October 1st of the most recent calendar year prior to the school year for which the tuition charge is computed. The insured value factor may not exceed 10% of the amount determined pursuant to paragraph A.

Sec. 17. 20-A MRSA §5807, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 18. 20-A MRSA §5808, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

§ 5808. Schools outside State

Beginning with the 2007-2008 school year, the tuition payment for students educated in whole in another state or country may not exceed the statewide average per student rate in all public schools as computed in section 5805-A.

Sec. 19. 20-A MRSA §5809, as amended by PL 2003, c. 477, §5 and c. 545, §§5 and 6, is further amended to read:

§ 5809. Students enrolled in career and technical educational programs

SchoolsBeginning with the 2007-2008 school year, schools receiving tuition students who are enrolled in regular school day career and technical educational programs at career and technical education centers, satellites or career and technical education regions, under chapter 313, may charge a tuition rate up to 2/3 of the maximum tuition rate as computed under sections 5805section 5805-A or 58065806-A. The career and technical education center, satellite or region may charge a tuition rate of up to 1/3 of the maximum tuition rate as computed under section 58055805-A or 58065806-A for the student.

Sec. 20. 20-A MRSA §5815 is enacted to read:

§ 5815. Report to commissioner

Any public or private school that receives tuition payments under this chapter for students from a public school administrative unit shall report any required information for those students in the department's student information system in accordance with time schedules established by the commissioner.

Sec. 21. 20-A MRSA §6651, sub-§6, as amended by PL 2005, c. 683, Pt. A, §26, is further amended to read:

6. Subsidizable cost of operating programs in private secondary schools. The cost of salaries and educational materials attributable to the child care services must be calculated on a per-child basis. ~~One hundred percent of the cost per child times the number of children whose parents attend school in the private school must be subsidizable as program costs under the Essential Programs and Services Funding Act if these costs are paid for by the school administrative unit responsible for educating the student parents.~~

Sec. 22. 20-A MRSA §8354, sub-§1, ¶B, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

~~B. Adjusting the amounts in paragraph A by the allowable percentages set forth in section 5805, subsection 1, paragraph D average change in public secondary education costs for the 2 years immediately prior to the school year for which the tuition charge is computed. This adjustment is limited to a 6% increase; and~~

Sec. 23. 20-A MRSA §9703, sub-§5, as amended by PL 2005, c. 683, Pt. A, §27, is further amended to read:

5. Line-item budget. A line-item budget submitted no later than 90 days prior to the fiscal year in which the program will operate. The proposed budget request may not exceed, on a per student basis, the state average tuition rate for a total of 12 students as provided in sections ~~5804, 5805~~5804-A, 5805-A and 15689.

Sec. 24. 20-A MRSA §15002-A, sub-§1, as enacted by PL 1985, c. 774, §7, is amended to read:

1. Alternative education, school dropouts and truants. Financing the department's obligation to provide services to encourage the development of alternative educational programs, including high school completion programs through adult education programs, and shall address other needs of school dropouts and truants as more specifically set forth in sections 5151 to 5153; and

Sec. 25. 20-A MRSA §15002-A, sub-§2, as enacted by PL 1985, c. 774, §7, is amended to read:

2. Allocation to school units. Allocations to school administrative units for the purpose of surveying school systems and developing school plans. The allocations ~~shall~~may not in any case exceed the unit's local share percentage determined under section ~~15609~~15688 of the ~~School Finance~~Essential Programs and Services Funding Act times the cost of those surveys or plans; ~~and.~~

Sec. 26. 20-A MRSA §15672, sub-§2-A, ¶C, as enacted by PL 2005, c. 2, Pt. D, §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

C. The portion of the tuition costs applicable to the insured value factor for the base year computed under section ~~5806~~5806-A; and

Sec. 27. 20-A MRSA §15689, sub-§2, as amended by PL 2005, c. 519, Pt. AAAA, §15, is further amended to read:

2. Adjustment for debt service. Each school administrative unit may receive an adjustment for ~~a~~ debt service determined as follows.

A. A school administrative unit is eligible for this adjustment under the following conditions.

(1) The school administrative unit's local share results in a full-value education mill rate less than the local cost share expectation as described in section 15671-A.

(2) The school administrative unit has debt service costs defined under section ~~15603~~15672, subsection 8 ~~that have been~~2-A incurred for the construction of major capital school construction projects that were placed on the state board's priority list by January 2005.

B. The amount of the adjustment is the difference, but not less than zero, between the state share of the total allocation under this chapter and the amount computed as follows.

(1) The school administrative unit's state share of the total allocation if the local share was the sum of the following:

(a) The local share amount for the school administrative unit calculated as the lesser of the total allocation excluding debt service costs and the school administrative unit's fiscal capacity multiplied by the mill rate expectation established in section 15671-A less .50 mills; and

(b) The local share amount for the school administrative unit calculated as the lesser of the debt service costs and the school administrative unit's fiscal capacity multiplied by .50 mills.

This subparagraph is repealed June 30, 2007.

(2) Beginning July 1, 2007, the school administrative unit's state share of the total allocation if the local share was the sum of the following:

(a) The local share amount for the school administrative unit calculated as the lesser of the total allocation excluding debt service costs and the school administrative unit's fiscal capacity multiplied by the mill rate expectation established in section 15671-A less the debt service adjustment mill rate defined in section 15672, subsection 2-B; and

(b) The local share amount for the school administrative unit calculated as the lesser of the debt service costs and the school administrative unit's fiscal capacity multiplied by the debt service adjustment mill rate defined in section 15672, subsection 2-B.

Sec. 28. 20-A MRSA §15689, sub-§5, ¶B, as enacted by PL 2005, c. 2, Pt. D, §60 and affected §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

B. The rate of reimbursement per student may not exceed the state average tuition rates in effect during the year of placement as computed under sections ~~5804 and 5805~~5804-A and 5805-A. The tuition rates must be computed based on the state average secondary tuition rate and may be adjusted if the program is approved to operate beyond the 180-day school year.

Sec. 29. 30-A MRSA §7205, sub-§2, ¶B, as enacted by PL 1989, c. 216, §2, is amended to read:

B. The allowable tuition rate for students sent from one municipality to another in the former school administrative district ~~shall~~must be determined under Title 20-A, section 5805, ~~subsection 1, except that it is not subject to the state per pupil average limitation in Title 20-A, section 5805, subsection 2~~5805-A.

SUMMARY

This bill provides for the continuing implementation of the Essential Programs and Services Funding Act in the areas of the subsidizable cost of operating programs in private secondary schools, the Permanent School Fund, adjustments to the state share of total allocation for debt service and methods of determining pupil tuition rates.