

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND TWELVE

H.P. 1284 - L.D. 1742

An Act To Amend Education Laws

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

PART A

**Sec. A-1. 20-A MRSA §6051, sub-§1, ¶D,** as enacted by PL 1985, c. 797, §36, is amended to read:

D. An audit of all federal programs in accordance with applicable federal law including a written determination that the audit has been conducted in accordance with applicable federal laws relating to financial and compliance audits as indicated in federal Office of Management and Budget circulars;

**Sec. A-2. 20-A MRSA §6051, sub-§1, ¶H,** as enacted by PL 2009, c. 571, Pt. E, §12, is amended to read:

H. A determination of whether the school administrative unit has complied with budget content requirements pursuant to section 15693, subsection 1 and cost center summary budget format requirements pursuant to sections 1305-C, 1485, 1701-C and 2307; ~~and~~

**Sec. A-3. 20-A MRSA §6051, sub-§1, ¶I,** as enacted by PL 2009, c. 571, Pt. E, §13, is amended to read:

I. A determination of whether the school administrative unit has exceeded its authority to expend funds, as provided by the total budget summary article; and

**Sec. A-4. 20-A MRSA §6051, sub-§1, ¶J** is enacted to read:

J. A determination of whether the school administrative unit has complied with the applicable provisions of the unexpended balances requirements established under section 15004.

**Sec. A-5. 20-A MRSA §6051, sub-§3**, as repealed and replaced by PL 1985, c. 797, §36, is amended to read:

**3. Auditors.** Audits ~~shall~~ must be conducted by ~~either the Department of Audit or~~ qualified certified public accountants or public accountants registered by the Board of Accountancy. The auditor shall review the audit with the school board.

**Sec. A-6. 20-A MRSA §6051, sub-§7, ¶¶B and C**, as enacted by PL 2009, c. 571, Pt. E, §14, are amended to read:

B. A school administrative unit audit is not necessary to meet federal audit requirements; and

C. The municipal school administrative unit files the municipal audit or audits that include the fiscal year specified in subsection 2; and.

**Sec. A-7. 20-A MRSA §6051, sub-§7, ¶D**, as enacted by PL 2009, c. 571, Pt. E, §14, is repealed.

**Sec. A-8. 20-A MRSA §15909, sub-§§5 and 6** are enacted to read:

**5. Records.** Financial records and accounts for a school construction project must be kept for 7 years after the final audit.

**6. Audit.** Financial records and accounts for state-funded school construction projects must be audited by department staff or certified public accountants contracted by the department.

## PART B

**Sec. B-1. 20-A MRSA §1486, sub-§4**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

**4. Failure to approve budget.** If the voters do not validate the budget approved in the regional school unit budget meeting at the budget validation referendum vote, the regional school unit board shall hold another regional school unit budget meeting in accordance with this section and section 1485 at least 10 days but no longer than 45 days after the referendum to vote on a budget approved by the regional school unit board. The budget approved at the regional school unit budget meeting must be submitted to the voters for validation at referendum in accordance with this section. The process must be repeated until a budget is approved at a regional school unit budget meeting and validated at referendum. If a budget is not approved and validated before July 1st of each year, section 1487 applies.

## PART C

**Sec. C-1. 20-A MRSA §1, sub-§41**, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

**Sec. C-2. 20-A MRSA c. 109**, as amended, is repealed.

**Sec. C-3. 20-A MRSA §15005, sub-§3**, as amended by PL 2009, c. 571, Pt. E, §16, is further amended to read:

**3. Return required.** An apportionment provided in this chapter, chapters 409, 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. C-4. 20-A MRSA §15909, sub-§1**, as amended by PL 1985, c. 248, §8, is repealed.

**Sec. C-5. 20-A MRSA §15909, sub-§2**, as amended by PL 1987, c. 402, Pt. A, §133 and c. 803, §§3 and 5, is further amended to read:

**2. Bonds.** A school administrative unit shall sell bonds in its name for the total cost of ~~the~~ a school construction project minus the amounts listed in paragraph A. Bond sales ~~shall~~ must be consistent with rules adopted or amended by the state board.

A. The amount to be bonded ~~shall~~ must be determined as follows. The total cost of the project ~~shall~~ must be reduced by:

- (2) Proceeds from insured losses;
- (3) Money from federal sources; and
- (4) Other noneducational funds, except gifts and money from federal revenue sharing sources.

B. A school administrative unit may borrow money for projects in anticipation of bond sales. Borrowing ~~shall~~ must be consistent with rules adopted or amended by the state board.

**Sec. C-6. 20-A MRSA §15909, sub-§3**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**3. Deductions; cost of project.** Proceeds from insured losses, money from federal sources and other noneducational funds ~~shall~~ must be deducted from the total cost of ~~the~~ a school construction project to determine the amount on which the state's share ~~shall~~ must be calculated. Proceeds from gifts or moneys from federal revenue sharing sources ~~shall~~ must be treated as local appropriations.

**Sec. C-7. 20-A MRSA §15909, sub-§4**, as enacted by PL 1985, c. 248, §10, is repealed.

**Sec. C-8. 26 MRSA §1043, sub-§28**, as amended by PL 1987, c. 737, Pt. C, §§71 and 106 and PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**28. Governmental entity.** "Governmental entity" means the State of Maine, its instrumentalities, political subdivisions and school administrative units as represented by their elected or appointed governing bodies and ~~shall include~~ includes, without limitation, city and town councils, boards of selectmen, boards of county commissioners, municipally owned and operated hospitals and administrative entities formed under Title 30-A, chapter 115. In the case of school administrative units, governing bodies ~~shall~~ include, without limitation, municipal school committees, school administrative district directors, and community school district school committees ~~and school unions formed under Title 20-A, chapter 109~~. In the case of special purpose districts, governing bodies ~~shall~~ include, without limitation, boards of directors or trustees.

**Sec. C-9. 39-A MRSA §102, sub-§12, ¶G**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

G. Municipal school committees; and

**Sec. C-10. 39-A MRSA §102, sub-§12, ¶H**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed.

## PART D

**Sec. D-1. 20-A MRSA §15905, sub-§3**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**3. Certificate of approval.** A certificate of approval ~~shall~~ must be issued for each project approved by the state board. The certificate ~~shall~~ must bear the amount ~~of state aid~~ approved for subsidy and other stipulations or conditions. The certificate ~~shall~~ must be signed by the commissioner and ~~shall be~~ is conclusive evidence of the facts stated on it.

## PART E

**Sec. E-1. 20-A MRSA §5205, sub-§§9 and 10** are enacted to read:

**9. Foreign exchange student.** A student who is not a resident of the State is considered a resident of the school administrative unit where the student resides if the superintendent has approved the acceptance of the student as a foreign exchange student and the student is attending the school at public expense. For the purposes of this subsection, "foreign exchange student" means a student who has been approved for a J-1 visa to participate in the Exchange Visitor Program for secondary school students pursuant to the provisions of the federal Mutual Educational and Cultural Exchange Program under 22 United States Code, Chapter 33 and 22 Code of Federal Regulations, Section 62.25.

**10. Student who is not a resident.** Except for a student accepted as a foreign exchange student pursuant to subsection 9, a student who is not a resident of the State and

who while not attending school resides and whose parents reside outside the State is not counted for purposes of essential programs and services under chapter 606-B.

## PART F

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

## PART G

**Sec. G-1. 20-A MRSA §8802, sub-§2, ¶A**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. In the first summer of its operation, ~~the average~~ an estimated cost for each student ~~in all summer schools in the State for the preceding summer~~ based on estimated costs to operate the summer school program divided by the estimated number of students expected to attend the summer school program;

**Sec. G-2. 20-A MRSA §8802, sub-§4**, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

## PART H

**Sec. H-1. 20-A MRSA §8101-A** is enacted to read:

### **§8101-A. Gifted and talented education programs**

**1. Implementation.** Each school administrative unit shall implement a gifted and talented education program. The commissioner may provide technical assistance to a school administrative unit in planning and implementing its gifted and talented education program.

**2. Costs; approval.** Costs of gifted and talented education programs approved by the department are subsidizable costs under the Essential Programs and Services Funding Act.

**3. Waivers.** Beginning with the 2012-2013 school year, a school administrative unit that did not operate a gifted and talented program in the 2011-2012 school year may apply to the commissioner for a one-year waiver of this requirement if full implementation of this requirement presents an undue burden. The commissioner may grant a school administrative unit a waiver upon receipt of an application from the school administrative unit that includes the basis for the waiver request. Financial hardship is one criterion the commissioner must consider in determining whether to grant a waiver. The rules amended or adopted by the department under subsection 4 must establish requirements applicable to the commissioner's authority to grant a one-year waiver to a school administrative unit and must provide requirements for an extension of a one-year waiver granted to a school administrative unit, including provisions that require that any additional request for extensions must be submitted and reviewed on an annual basis.

**4. Rules.** The department shall amend or adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A establishing procedures and criteria for approval of gifted and talented education programs under this chapter.

**Sec. H-2. 20-A MRSA §8102**, as amended by PL 2009, c. 147, §8, is repealed.

**Sec. H-3. 20-A MRSA §8103**, as amended by PL 2003, c. 477, §9, is repealed.

**Sec. H-4. Transition.** A school administrative unit that does not operate an approved gifted and talented education program in the 2011-2012 school year shall implement such a program not later than the 2012-2013 school year. School administrative units that operate an approved gifted and talented education program in the 2011-2012 school year are subject to the requirements of the Maine Revised Statutes, Title 20-A, section 8101-A beginning on the effective date of this Act.

## PART I

**Sec. I-1. 20-A MRSA §7001, sub-§2-C**, as enacted by PL 2011, c. 348, §3, is amended to read:

**2-C. Individualized education program team.** "Individualized education program team" means the group of individuals composed in accordance with Part ~~C~~ **B** of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414(d)(1)(B) to determine the individualized education program for a child with a disability.

## PART J

**Sec. J-1. 20-A MRSA §1466, sub-§9**, as enacted by PL 2009, c. 580, §9, is repealed and the following enacted in its place:

**9. Required vote.** Before the municipality may withdraw from the regional school unit, the withdrawal agreement must be approved by a majority vote of those casting valid votes in the municipality, and the total number of votes cast for and against withdrawal at the municipal vote must equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election.

This subsection is repealed January 1, 2015.

**Sec. J-2. 20-A MRSA §1466, sub-§9-A** is enacted to read:

**9-A. Required vote; exception for a municipality of a school administrative district that was reformulated as a regional school unit.** A 2/3 vote of those casting valid votes in the municipality is required before a municipality that is a member municipality of a school administrative district that was reformulated as a regional school unit pursuant to Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12 may withdraw from the regional school unit.

This subsection is repealed January 1, 2015.

**Sec. J-3. 20-A MRSA §1466, sub-§9-B** is enacted to read:

**9-B. Required vote.** Beginning January 1, 2015 a 2/3 vote of those casting valid votes in the municipality is required before the municipality may withdraw from the regional school unit.

**Sec. J-4. 20-A MRSA §1466, sub-§13**, as enacted by PL 2009, c. 580, §9, is amended to read:

**13. Determination of results; execution of agreement.** If the commissioner finds that a ~~2/3~~ majority of the voters voting on the article ~~have~~ has voted in the affirmative and the total number of votes cast for and against the article equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election, the commissioner shall notify the municipal officers and the regional school unit board to take steps for the withdrawal in accordance with the terms of the agreement for withdrawal.

This subsection is repealed January 1, 2015.

**Sec. J-5. 20-A MRSA §1466, sub-§13-A** is enacted to read:

**13-A. Determination of results; execution of agreement; effective date.** Beginning January 1, 2015, if the commissioner finds that a 2/3 majority of the voters voting on the article has voted in the affirmative, the commissioner shall notify the municipal officers and the regional school unit board to take steps for the withdrawal in accordance with the terms of the agreement for withdrawal.

## PART K

**Sec. K-1. 20-A MRSA §1511**, as amended by PL 2011, c. 171, §4, is further amended to read:

### **§1511. Supermajority vote to close school in the regional school unit**

A school operated within the regional school unit may not be closed for lack of need unless closure of the school is approved at a regular or special meeting of the regional school unit board by an affirmative vote of 2/3 of the elected membership or voting power of those serving on the regional school unit board at the time of the vote. A regional school unit must proceed in accordance with section 1512 for elementary schools or for secondary schools if the regional school unit has more than one secondary school. For regional school units with only one member municipality, section 1512 does not apply and the regional school unit must proceed in accordance with section 4102, subsection 4, paragraph B-1.

---

In House of Representatives, ..... 2012

Read twice and passed to be enacted.

..... Speaker

---

In Senate, ..... 2012

Read twice and passed to be enacted.

..... President

---

Approved ..... 2012

..... Governor