

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1369

H.P. 955

House of Representatives, March 17, 2005

Resolve, Directing the Department of Administrative and Financial Services, Bureau of the Budget To Review Unfunded Mandates

(EMERGENCY)

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RINES of Wiscasset.

Cosponsored by Representative MILLETT of Waterford, Senator HOBBS of York, Senator ANDREWS of York and Representatives: BLANCHETTE of Bangor, BLISS of South Portland, DUPREY of Hampden, FLETCHER of Winslow, MARLEY of Portland, McCORMICK of West Gardiner, Senators: COWGER of Kennebec, DOW of Lincoln.

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

4
6 **Whereas,** this resolve directs the Department of
Administrative and Financial Services, Bureau of the Budget to
review certain unfunded mandates; and

8
10 **Whereas,** the review must be initiated before the 90-day
period expires in order that the review may be completed and a
report submitted in time for submission to the next legislative
12 session; and

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

20 **Sec. 1. Department to conduct review. Resolved:** That the
Department of Administrative and Financial Services, Bureau of
22 the Budget, referred to in this resolve as "the bureau," shall
conduct a review of unfunded state mandates pertaining to
24 municipalities and school systems that were enacted prior to
November 23, 1992, the effective date of the Constitution of
26 Maine, Article 9, Section 21, which limits the imposition of
unfunded state mandates. In conducting its review, the bureau
28 shall:

30 1. Prepare a comprehensive listing of the state mandates
placed on municipalities, school administrative units, counties
32 and quasi-municipal entities that are considered by the affected
units of government to be deserving of analysis and review;

34 2. Identify for each listed mandate the precise legal
36 origin of the mandate, whether state law or regulation or a
combination of both, or any originating authority;

38 3. Identify the statewide local government costs of each
40 listed mandate within the limits of practicability; and

42 4. Identify the characteristics of each listed mandate that
cause the affected units of government to believe the mandate is
44 deserving of review. Identified characteristics may include, but
are not limited to, the following:

46 A. Archaic or unnecessary features or features lacking
48 significant public purpose;

50 B. Inadequate funding;

2 C. Disproportionate efforts for the public policy benefit;

4 D. Coordination solely between federal and state law and regulation;

6 E. Subjection to excessive administrative oversight; and

8 F. An insufficient structure to predict, measure or control local costs; and be it further

10 **Sec. 2. Participation of other entities. Resolved:** That the bureau,
12 in the conduct of its duties, may seek information from all
14 related state agencies; statewide or regional associations
16 representing municipalities, counties, schools and
18 quasi-municipal associations; and statewide associations
20 representing the beneficiaries or interests that may be affected
by the repeal, modification, redesign, enhanced coordination or
delayed implementation of the mandates under the bureau's
purview; and be it further

22 **Sec. 3. Report. Resolved:** That, no later than November 2,
24 2005, the bureau shall submit a report that includes its findings
and recommendations, including suggested legislation, for
presentation to the Joint Standing Committee on State and Local
Government and the Legislative Council. In its proposed
26 implementing legislation, the bureau may include proposals to
repeal, modify, redesign, effectively coordinate or delay the
28 implementation of any of the listed mandates, as may be
appropriate. The bureau is not authorized to introduce
30 legislation. Following receipt and review of the report, the
Joint Standing Committee on State and Local Government may
32 report out a bill to the Second Regular Session of the 122nd
Legislature.

34 **Emergency clause.** In view of the emergency cited in the
36 preamble, this resolve takes effect when approved.

38 **SUMMARY**

40 This resolve directs the Department of Administrative and
42 Financial Services, Bureau of the Budget to identify the unfunded
state mandates placed on local and regional governmental entities
44 that were enacted prior to November 23, 1992, the effective date
of the Constitution of Maine, Article 9, Section 21, which limits
46 the imposition of unfunded state mandates and to recommend
legislation for reducing the burden of those mandates.