

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 2016 to August 2, 2017

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IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
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Augusta, Maine
2017

INITIATED BILLS OF THE STATE OF MAINE
REFERRED TO THE VOTERS BY
THE ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE
AND APPROVED AT REFERENDUM

CHAPTER 2

I.B. 4 - L.D. 1661

**An Act To Raise the Minimum
Wage**

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

Sec. 1. 26 MRSA §664, sub-§1, as amended by PL 2007, c. 640, §4, is further amended to read:

1. Minimum wage. The minimum hourly wage is ~~\$6.50 per hour. Starting October 1, 2006, the minimum hourly wage is \$6.75 per hour. Starting October 1, 2007, the minimum hourly wage is \$7.00 per hour. Starting October 1, 2008, the minimum hourly wage is \$7.25 per hour. Starting October 1, 2009, the minimum hourly wage is \$7.50 per hour. Starting January 1, 2017, the minimum hourly wage is \$9.00 per hour; starting January 1, 2018, the minimum hourly wage is \$10.00 per hour; starting January 1, 2019, the minimum hourly wage is \$11.00 per hour; and starting January 1, 2020, the minimum hourly wage is \$12.00 per hour. On January 1, 2021 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢. If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section, the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed the minimum wage otherwise in effect under this section by more than \$1 per hour and must be increased in accordance with this section thereafter.~~

Sec. 2. 26 MRSA §664, sub-§2, as amended by PL 2011, c. 118, §3, is further amended to read:

2. Tip credit. An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section. Starting January 1,

2017, the minimum cash wage paid directly to a tipped service employee may not be less than \$5.00 per hour, and the tip credit may not exceed the difference between the minimum cash wage paid directly to a tipped service employee and the minimum hourly wage established under subsection 1. Starting January 1, 2018, and on each January 1st thereafter, the minimum cash wage paid directly to a tipped service employee must be increased by an additional \$1.00 per hour until it reaches the same amount as the annually adjusted minimum hourly wage established under subsection 1, except that if the minimum cash wage paid directly to a tipped service employee is less than \$1.00 less than the annually adjusted minimum hourly wage, it must be increased by that lesser amount. An employer who elects to use the tip credit, until it is eliminated under this subsection, must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

The tips received by a service employee become the property of the employee and may not be shared with the employer. Tips that are automatically included in the customer's bill or that are charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company.

Effective January 7, 2017.

CHAPTER 3

I.B. 2 - L.D. 1557

**An Act To Establish
Ranked-choice Voting**

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

Sec. 1. 21-A MRSA §1, sub-§27-C is enacted to read:

27-C. Office elected by ranked-choice voting. "Office elected by ranked-choice voting" means any of the following offices: United States Senator, United States Representative to Congress, Governor, State

Senator and State Representative, and includes any nominations by primary election to such offices.

Sec. 2. 21-A MRSA §1, sub-§35-A is enacted to read:

35-A. Ranked-choice voting. "Ranked-choice voting" means the method of casting and tabulating votes in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which last-place candidates are defeated and the candidate with the most votes in the final round is elected.

Sec. 3. 21-A MRSA §601, sub-§2, ¶J is enacted to read:

J. For offices elected by ranked-choice voting, the ballot must be simple and easy to understand and allow a voter to rank candidates for an office in order of preference. A voter may include no more than one write-in candidate among that voter's ranked choices for each office.

Sec. 4. 21-A MRSA §722, sub-§1, as amended by PL 2009, c. 253, §36, is further amended to read:

1. How tabulated. The Secretary of State shall tabulate all votes that appear by an election return to have been cast for each question or candidate whose name appeared on the ballot. For offices elected by ranked-choice voting, the Secretary of State shall tabulate the votes according to the ranked-choice voting method described in section 723-A. The Secretary of State shall tabulate the votes that appear by an election return to have been cast for a declared write-in candidate and shall tabulate the votes that appear to have been cast for an undeclared write-in candidate based on a recount requested and conducted pursuant to section 737-A, subsection 2-A.

Sec. 5. 21-A MRSA §723-A is enacted to read:

§723-A. Determination of winner in election for an office elected by ranked-choice voting

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

A. "Batch elimination" means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.

B. "Continuing ballot" means a ballot that is not an exhausted ballot.

C. "Continuing candidate" means a candidate who has not been defeated.

D. "Exhausted ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking or contains 2 or more sequential skipped rankings before its highest continuing ranking.

E. "Highest continuing ranking" means the highest ranking on a voter's ballot for a continuing candidate.

F. "Last-place candidate" means the candidate with the fewest votes in a round of the ranked-choice voting tabulation.

G. "Mathematically impossible to be elected," with respect to a candidate, means either:

(1) The candidate cannot be elected because the candidate's vote total in a round of the ranked-choice voting tabulation plus all votes that could possibly be transferred to the candidate in future rounds from candidates with fewer votes or an equal number of votes would not be enough to surpass the candidate with the next-higher vote total in the round;
or

(2) The candidate has a lower vote total than a candidate described in subparagraph (1).

H. "Overvote" means a circumstance in which a voter has ranked more than one candidate at the same ranking.

I. "Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate. Ranking number one is the highest ranking, ranking number 2 is the next-highest ranking and so on.

J. "Round" means an instance of the sequence of voting tabulation steps established in subsection 2.

K. "Skipped ranking" means a circumstance in which a voter has left a ranking blank and ranks a candidate at a subsequent ranking.

2. Procedures. Except as provided in subsections 3 and 4, the following procedures are used to determine the winner in an election for an office elected by ranked-choice voting. Tabulation must proceed in rounds. In each round, the number of votes for each continuing candidate must be counted. Each continuing ballot counts as one vote for its highest-ranked continuing candidate for that round. Exhausted ballots are not counted for any continuing candidate. The round then ends with one of the following 2 potential outcomes.

A. If there are 2 or fewer continuing candidates, the candidate with the most votes is declared the winner of the election.

B. If there are more than 2 continuing candidates, the last-place candidate is defeated and a new round begins.

3. Ties. A tie under this section between candidates for the most votes in the final round or a tie between last-place candidates in any round must be decided by lot, and the candidate chosen by lot is de-

feated. The result of the tie resolution must be recorded and reused in the event of a recount. Election officials may resolve prospective ties between candidates before the election.

4. Modification of ranked-choice voting ballot and tabulation. Modification of a ranked-choice voting ballot and tabulation is permitted in accordance with the following.

A. The number of allowable rankings may be limited to no fewer than 6.

B. Two or more candidates may be defeated simultaneously by batch elimination in any round of tabulation.

5. Effect on rights of political parties. For all statutory and constitutional provisions in the State pertaining to the rights of political parties, the number of votes cast for a party's candidate for an office elected by ranked-choice voting is the number of votes credited to that candidate after the initial counting in the first round described in subsection 2.

6. Application. This section applies to elections held on or after January 1, 2018.

Sec. 6. Application. This Act applies to elections held on or after January 1, 2018.

Effective January 7, 2017.

CHAPTER 4

I.B. 3 - L.D. 1660

An Act To Establish the Fund To Advance Public Kindergarten to Grade 12 Education

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

Sec. 1. 20-A MRS §15697 is enacted to read:

§15697. Fund to Advance Public Kindergarten to Grade 12 Education

1. Fund established. The Fund to Advance Public Kindergarten to Grade 12 Education, referred to in this section as "the fund," is established as an interest-bearing account administered by the department.

2. Revenue; 30-day review before changing use of fund. The Treasurer of State shall deposit all revenue collected pursuant to Title 36, section 5111, subsection 6 from the income tax surcharge to advance public kindergarten to grade 12 education into the fund according to the schedule in Title 36, section 5111, subsection 6. Any private or public funds appropriated, allocated or dedicated to the fund must be depos-

ited into the fund as well as income from any other source directed to the fund. All interest earned by the fund becomes part of the fund. Legislation that proposes to enact or amend a law that would change the distribution of the revenue directed to the fund by this subsection or by Title 36, section 5111, subsection 6 must be submitted to the Legislative Council and to the joint standing committee of the Legislature having jurisdiction over education matters at least 30 days prior to any vote or public hearing on that legislation.

3. Use of fund to supplement and not supplant General Fund appropriations; direct support for student learning. The use of the fund is controlled by this subsection. The fund may not be used for any purpose other than as described in this subsection.

A. If the General Fund appropriation for the state contribution for general purpose aid for local schools as finally enacted in any year is insufficient to meet the annual target established by section 15752, the commissioner shall use the fund to supplement the state contribution. These supplemental funds must be used to enable the State to meet the annual target established by section 15752 or to decrease the amount by which state funding from all other sources falls short of the target. The commissioner shall announce the increased state contribution amounts made possible by the supplemental amounts obtained from the fund within 14 days after final enactment of the General Fund appropriation for general purpose aid for local schools. The commissioner shall distribute the increased state contribution amounts on the basis of the essential programs and services formula set forth in this chapter.

B. The fund may be used only to pay for portions of the state contribution that constitute direct support for student learning and not for the costs of administration. As used in this paragraph, "direct support for student learning" includes salary and benefit costs paid for public school classroom teachers; special teachers of reading or mathematics; literacy specialists; career technical education teachers; education technicians; associate teachers; assistant teachers; special education technicians I, II or III; guidance staff; health staff; librarians; and media assistants as documented in the department's database. Direct support for student learning does not include salary and benefit costs paid for school administrative staff or clerical staff. By July 1st annually each school administrative unit must file a report to the department detailing how the funding provided by this section was used to provide direct support for student learning in this chapter.

C. The fund may be used for the necessary expenses of the department in the administration of the fund.