

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

J.S. McCarthy Company
Augusta, Maine
1995

may introduce and report legislation it determines necessary to modify the provisions of this section.

9. Repeal. This section is repealed July 1, 1997.

Sec. 3. 12 MRSA §6080 is enacted to read:

§6080. Maine Salmon Aquaculture Advisory Council

1. Appointment; composition. The Maine Salmon Aquaculture Advisory Council, referred to in this section as the "council" and established by Title 5, section 12004-I, subsection 57-B, consists of 4 members. The commissioner or the commissioner's designee is a nonvoting, ex officio member of the council. The commissioner shall appoint 3 members from the State's salmon aquaculture industry. No more than 2 of the appointed members may represent similar segments of the State's salmon aquaculture industry.

2. Term. Council members serve for 3 years and continue serving until a successor is duly appointed and qualified. In the case of a vacancy, the commissioner shall promptly fill the vacancy.

3. Purpose. The council shall make recommendations to the commissioner concerning expenditures from the Salmon Aquaculture Monitoring, Research and Development Fund for the purposes described under section 6078, subsections 4 and 7.

4. Chair and officers. The council annually shall choose one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

5. Meetings. The council shall meet at least once each year. It may also meet at other times at the call of the chair or the chair's designee or the commissioner or the commissioner's designee.

6. Repeal. This section is repealed July 1, 1997.

Sec. 4. PL 1995, c. 176, §§1 and 3 are repealed.

Sec. 5. Allocation. The following funds are allocated from the Salmon Aquaculture Monitoring and Research Fund to carry out the purposes of this Act.

1996-97

**MARINE RESOURCES,
DEPARTMENT OF**

**Salmon Aquaculture Monitoring,
Research and Development Fund**

Positions - Other Count (1.0)

Personal Services	\$36,888
All Other	101,253
Capital Expenditures	39,421

TOTAL	\$177,562
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Allocates funds to reestablish one Marine Resources Scientist I position and necessary operating costs for the Salmon Aquaculture Monitoring, Research and Development Fund.

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

Effective April 2, 1996.

CHAPTER 610

H.P. 1327 - L.D. 1818

An Act to Require that Public Schools Permit Participation in Curricular, Cocurricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs

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, two thirds 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:

Sec. 1. 20-A MRSA c. 211, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

EQUIVALENT INSTRUCTION PROGRAMS

§5021. Standards for participation in public schools by students enrolled in equivalent instruction programs

A school administrative unit shall conform to the following standards in making public school resources and services available to a student enrolled in an

equivalent instruction program approved by the commissioner pursuant to section 5001-A, subsection 3, paragraph A, subparagraph (3) for a student otherwise eligible to attend school in that school administrative unit.

1. Participation in regular classes. A student receiving home instruction may enroll in specific day school classes at the appropriate public school if each of the following conditions is met.

A. The student or the student's parent or guardian, on the student's behalf, applies in writing to and receives written approval from the superintendent or the superintendent's designee. Approval may not be unreasonably withheld.

B. The student can demonstrate prior satisfactory academic achievement consistent with school unit policy and procedures applicable to all students.

C. The student shall comply with behavioral, disciplinary, attendance and other classroom rules applicable to all students. If a student fails to comply, the school may withhold credit or terminate participation.

D. Transportation must be provided by the parent or guardian or student. The student may use the same transportation as all other students in the school unit, as long as additional expenses are not incurred.

E. The student shall complete all assignments and tests as required of all students in the class.

F. A home-schooled student may audit a course in accordance with established local policy at the appropriate public school under the following conditions.

(1) The student or the student's parent or guardian, on behalf of the student, applies in writing to and receives written approval from the superintendent or the superintendent's designee to audit a specific course or courses. Participation may not be unreasonably withheld.

(2) The student agrees to meet established behavioral, disciplinary, attendance and other classroom rules applicable to all students. If a student fails to comply, the school may terminate participation.

2. Academic credit. A student receiving home-school instruction must receive academic credit subject to the following requirements.

A. Academic credit for individual courses must be awarded if the student meets required aca-

demie standards applicable to all students enrolled in the same course.

B. Academic credit must be awarded for successful completion of alternative instruction opportunities sponsored by the school and available to all students.

3. Special education services. A student receiving home-school instruction is eligible for special education services, as provided under federal regulations, in accordance with section 5001-A and relevant department procedures and standards.

4. Participation in cocurricular activities. A student receiving home-school instruction is eligible to participate in cocurricular activities sponsored by the local school unit provided the following requirements are met.

A. The student or the student's parent or guardian, on behalf of the student, applies in writing to and receives written approval from the principal of the school or the principal's designee. Participation may not be unreasonably withheld.

B. The student agrees to meet established behavioral, disciplinary, attendance and other rules applicable to all students.

5. Participation in extracurricular activities. Students receiving home-school instruction are eligible to try out for extracurricular activities sponsored by the local school unit, provided the student applies in writing, if the following requirements are satisfied.

A. The student agrees to abide by equivalent rules of participation as are applicable to regularly enrolled students participating in the activity and provides evidence that the rules of participation are being met.

B. The student complies with the same physical examination, immunization, insurance, age and semester eligibility requirements as regularly enrolled students participating in the activity. All required documentation must be made available upon request by the school unit.

C. The student meets equivalent academic standards as those established for regularly enrolled students participating in the activity and provides evidence that the academic standards are being met.

D. The student abides by the same transportation policy as regularly enrolled students participating in the activity.

6. Use of school facilities and equipment. A student receiving home-school instruction may use

public school facilities and equipment on the same basis as regularly enrolled students if the following conditions are met:

- A. Use does not disrupt regular school activities;
- B. Use is approved by the school principal in accordance with established school policy;
- C. Use does not create additional expense to the school unit;
- D. Use is directly related to the student's academic program; and
- E. Use of potentially hazardous areas, such as shops, laboratories and the gymnasium, is supervised by a qualified employee of the school administrative unit.

7. Use of school textbooks and library books.

Subject to availability, a student receiving home instruction may use school textbooks if the number of particular copies are sufficient and library books owned by the school unit subject to the following conditions:

- A. Use does not disrupt regular student, staff or special program functions;
- B. The student's sign-out period for a library book is the same as that applicable to regularly enrolled students;
- C. The student may sign out a textbook for a period not to exceed one year; and
- D. The parent or guardian and student agree to reimburse the school unit for lost, unreturned or damaged library books and textbooks and for consumable supplies used.

§5022. Admission to regular program

1. Placement. A student who has been receiving home-school instruction and who seeks admission to the regular school program must be placed in a grade commensurate with the level of the student's academic achievement. Placement must be guided by the following.

- A. Grade level placement is determined by the locally designated appropriate school staff, based upon but not limited to such factors as the student's completed curricula and record of achievement, conferencing with the student's parent or guardian and administration of tests, if determined necessary.
- B. The final grade level placement decision is based upon local school unit policy and procedures. That decision may be appealed to the

school unit superintendent and, if desired, subsequently to the local school board, whose decision is final.

2. High school course credits and diploma eligibility. The following standards govern the awarding of course credits and a graduation diploma to a student receiving home-school instruction who seeks admission to the public high school.

- A. A student shall earn high school credits for satisfactory completion of courses in the public high school pursuant to section 5021, subsection 2, paragraph A.
- B. A student may earn credit for course work completed through home-school instruction if the principal determines both in advance and upon completion of the course that the course satisfies the requirements for awarding the credit. The principal may direct that the student undergo a test or tests to assist in making a determination relative to the awarding of credit.

C. Requests for transfer credit for equivalent instruction completed at nonapproved private schools, at private schools that elect not to meet requirements under section 2901 or through other equivalent instruction programs must be evaluated on the merits of the documentation provided. The principal and guidance staff shall conduct these evaluations on request by the student or the student's parent or guardian.

D. Awarding of a high school diploma by the local school is conditioned upon the student's demonstration of having satisfied all course credit or other requirements established by the local school board. The local board of directors may establish resident credit requirements as a precondition for the awarding of a local school unit diploma.

§5023. Standards for participation when tuition payment is required

When the local public school unit does not provide academic instruction for specific grade levels, the following applies for students enrolled in an approved program of equivalent instruction.

1. Class participation. The home-schooled student or the student's parent or guardian shall request authorization from the resident local school unit to apply to another school unit for permission to participate in classes or activities in that other school unit.

2. Tuition payment. Tuition payments for home-schooled student participation in a local school unit, including attendance at an applied technology

center or an applied technology region, other than the applicant's resident district is the responsibility of the home-schooled student, the student's parent or guardian or the student's resident school administrative unit, in accordance with local school unit policy. Participation may not be unreasonably withheld.

3. Participation eligibility. A tuitioned home-schooled student is subject to the rules relating to eligibility for participation in cocurricular or extracurricular activities as may apply at the receiving school unit.

4. Interscholastic activities. A tuitioned home-schooled student attending classes in more than one receiving school unit is not eligible for participation in interscholastic activities at any local school unit.

§5024. Local school unit policy

Each school administrative unit shall develop and adopt a policy consistent with this subchapter. Establishment and administration of the local school unit policy is subject to the following.

1. Policy. Local school unit policy must be submitted to and placed on file in the department by January 1, 1997.

2. Implementation. Locally approved policy is implemented and administered by the local school unit.

3. Provision of information. At the request of the student or the student's parent or guardian, public schools shall make available to home-schooled students, in a form determined by the school, information regarding access to public school resources and services, participation in public school activities and attendance at public schools. This information must include:

A. Requirements regarding initial health and developmental screening for motor skills, vision, hearing and immunization; and

B. Criteria for participation of home-schooled students in curricular, cocurricular and extracurricular activities.

4. Appeals. Appeals from administration and application of the local school unit policy are heard by the local school unit's school board, whose decision is final and binding.

§5025. Compliance

Appeals that question the local school unit's policy compliance with this subchapter must be made to the commissioner, whose decision is final and binding.

Sec. 2. Construction; legislative intent; cooperation between the State and local school administrative units. With respect to the provision for equivalent instruction under the Maine Revised Statutes, Title 20-A, section 5001-A, subsection 3, paragraph A, subparagraph (3), the Legislature recognizes that the term "equivalent" is intended to mean meeting state standards, for alternate or other instruction and is not intended to mean the same as the education delivered in the public school system. It is the intention of the Legislature that, to meet the State's obligation to educate its children, the State and local school administrative units shall cooperate in the home instruction of any child who resides in that school administrative unit to the degree that the level of cooperation does not interfere with the responsibilities to students enrolled in regular programs.

See title page for effective date.

CHAPTER 611

S.P. 703 - L.D. 1792

An Act Concerning the Number of Washington County Commissioners

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, two thirds 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. Special advisory referendum on the reapportionment of Washington County Commissioner Districts. The municipal officers of Washington County shall, at the next general election in the month of November following the passage of this Act, hold a special advisory referendum to determine the sentiment of the people of Washington County on the reapportionment of Washington County into 5 County Commissioner Districts.

Sec. A-2. Advisory referendum procedure; submission at general election. This advisory referendum must be submitted to the legal voters of Washington County at the next general election in the month of November following passage of this Act. The municipal officers of Washington