

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 11, 2000**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2000**

**Whereas**, the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

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

**Sec. 1. Adoption. Resolved:** That final adoption of Portions of Sections 61, 62, 63, 68 and 73 of 10-49, Chapter 5, Bureau of Elder and Adult Services Policy Manual, a provisionally adopted major substantive rule of the Department of Human Services, that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A is authorized if the Department of Human Services amends the rules as follows:

1. With regard to adult day services, Alzheimer's respite, congregate housing services and the home-maker program in sections 61, 62, 63, 68 and 73, a requirement is added that consumers who may qualify for a waiver be informed of the right to apply for a waiver; and

2. With regard to in-home and community support services and personal care assistance for severely physically disabled adults, reference to determination of the dependent allowance in agreement with the method used in the Medicaid program is added in sections 63.09(C) and 73.07(C).

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

Effective April 14, 2000.

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**CHAPTER 119**

**S.P. 956 - L.D. 2497**

**Resolve, to Ensure Adequate District Court Facilities for Western York County**

**Sec. 1. Maine Governmental Facilities Authority authorized to issue additional securities to replace the Springvale District Court. Resolved:** That, pursuant to the Maine Revised Statutes, Title 4, section 1606, subsection 2, the Maine Governmental Facilities Authority is authorized to issue additional securities in its own name in an amount of \$1,200,000 on or after July 1, 2001 for the purpose of replacement of the Springvale District Court.

See title page for effective date.

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**CHAPTER 120**

**S.P. 1029 - L.D. 2609**

**Resolve, to Ensure Adequate Funding for the Lewiston District Court**

**Sec. 1. Maine Governmental Facilities Authority authorized to issue additional securities to replace the Lewiston District Court. Resolved:** That, pursuant to the Maine Revised Statutes, Title 4, section 1606, subsection 2, the Maine Governmental Facilities Authority is authorized to issue additional securities in its own name in an amount of \$2,000,000 on or after July 1, 2001 for the purpose of replacement of the Lewiston District Court.

See title page for effective date.

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**CHAPTER 121**

**S.P. 1017 - L.D. 2585**

**Resolve, to Establish the National Guard Education Assistance Pilot Program**

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

**Whereas**, the Maine National Guard is a valuable resource for the State of Maine; and

**Whereas**, those in service to Maine deserve to be recognized and rewarded for their service; and

**Whereas**, it is imperative that this legislation take effect in time to allow members of the Maine National Guard to attend classes in the summer; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of

the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. National Guard Education Assistance Pilot Program. Resolved:** That the National Guard Education Assistance Pilot Program is established.

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

A. "Course" means a class taught over a semester, trimester, quarter or term.

B. "Degree program" means a course of study programmed to culminate in a specific degree, diploma or certificate.

C. "Maine National Guard member" or "member" means a member of a federally recognized unit of the Maine National Guard.

D. "State postsecondary education institution" means the University of Maine System, the Maine Maritime Academy, the Maine Technical College System or any other college or university system established as a public instrumentality in this State.

E. "Tuition" means the total semester, trimester, quarter or term or classroom-hour cost of instruction to the student as periodically published in the catalog of a state postsecondary education institution, including mandatory fees and lab fees but excluding all other expenses such as book charges, room and board.

F. "Unsatisfactory participant" means a member of the Maine National Guard who has accumulated 9 or more unexcused absences from unit training assemblies or who, without proper authority, fails to attend or complete the entire period of annual training.

**2. Tuition grant for Maine National Guard member.** A Maine National Guard member who meets the prerequisites of subsection 3 is entitled to a 100% tuition grant at any state postsecondary education institution. The Maine National Guard shall provide the cost of tuition to a member who meets the requirements of subsection 3.

**3. Minimum prerequisites.** To qualify for a tuition waiver pursuant to subsection 2, the Maine National Guard member must:

A. Have successfully completed basic training or received a commission;

B. Be a satisfactory participant in the Maine National Guard; and

C. Enter into a written contractual commitment with the Maine National Guard to serve in the Maine National Guard for at least one year beyond the end of the term for which a tuition grant is granted.

**4. Cessation of benefits.** The tuition grant benefits granted under this section cease upon:

A. Accumulation of 150 credit hours, or the equivalent, of tuition grant assistance by the Maine National Guard member;

B. Unsatisfactory participation by the Maine National Guard member in the Maine National Guard as certified to the state postsecondary education institution by the Adjutant General; or

C. Failure by the Maine National Guard member to maintain good academic standing at the state postsecondary education institution.

**5. Restitution.** Repayment of tuition waiver benefits is required pursuant to this subsection.

A. A Maine National Guard member shall repay the Maine National Guard the full amount of education assistance received for each course during the preceding semester, trimester, quarter or term that:

(1) The member fails to complete; or

(2) The member completes but for which the member earns a grade lower than 2.0 on a 4.0 scale.

B. If the member becomes an unsatisfactory participant with the Maine National Guard or does not remain in good academic standing with the state postsecondary education institution, then the Maine National Guard member shall repay the full amount of tuition grant received for all courses taken during the preceding semester, trimester, quarter or term to the Maine National Guard.

C. If the member does not fulfill the member's contractual obligation to the Maine National Guard as defined in subsection 3, paragraph C, then the Adjutant General shall notify the Maine National Guard member in writing that the member is liable for restitution and the member shall repay the Maine National Guard the full amount of the tuition grant received during the last school year.

A member may appeal the requirement to make restitution pursuant to this subsection if the member

files a written notice of intent to appeal with the Adjutant General within 30 days of notice that the member is liable for restitution. During the pendency of the appeal, the requirement of restitution is postponed. If the Adjutant General determines that the member, in fact, met the requirements for restitution as described in paragraph A, B or C and that there were not sufficient extenuating circumstances to excuse the failure of the member to complete satisfactorily the course or participation in the Maine National Guard, the Adjutant General shall inform the member of this determination and the member shall make restitution to the Maine National Guard for those courses for which the Adjutant General determines the member is liable. The decision of the Adjutant General is final and may not be appealed.

**6. In-state tuition rates.** Regardless of the state of residence, a member of the Maine National Guard who has met the requirements of this section and is attending a state postsecondary education institution qualifies for in-state tuition rates; and be it further

**Sec. 2. Data-keeping; report. Resolved:** That the Department of Defense, Veterans and Emergency Management shall keep and analyze data on the effects of the education assistance pilot program on recruitment and retention of Maine National Guard members. The department shall report to the joint standing committee of the Legislature having jurisdiction over legal and veterans' affairs in January 2001 and 2002; and be it further

**Sec. 3. Funding cap. Resolved:** That grants may not be made after June 30, 2001 or after the funds allocated in this resolve are exhausted, whichever is later; and be it further

**Sec. 4. Application. Resolved:** That this resolve applies to school semesters, trimesters, quarters or terms beginning on or after the effective date of this resolve; and be it further

**Sec. 5. Appropriation. Resolved:** That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

2000-01

**DEFENSE, VETERANS AND  
EMERGENCY  
MANAGEMENT,  
DEPARTMENT OF**

**Military Educational Benefits**

All Other	\$300,000
Provides one-time funds for the cost of tuition for eligible	

members of the Maine National Guard.

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

Effective May 5, 2000.

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**CHAPTER 122**

**S.P. 1067 - L.D. 2660**

**Resolve, Authorizing the Refund of  
Sales Tax Overpayments to a Maine  
Business**

**Sec. 1. Refund authorized. Resolved:** That the Department of Administrative and Financial Services, Bureau of Revenue Services shall refund to Bond Brothers Hardware, Incorporated the amount of \$8,680 attributable to sales tax overpaid during the period from December 1, 1991 to June 30, 1992; and be it further

**Sec. 2. Appropriation. Resolved:** That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

2000-01

**ADMINISTRATIVE AND  
FINANCIAL SERVICES,  
DEPARTMENT OF**

**Miscellaneous Acts & Resolves**

All Other	\$8,680
Provides funds for a sales tax refund to Bond Brothers Hardware, Incorporated.	

See title page for effective date.

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**CHAPTER 123**

**H.P. 466 - L.D. 629**

**Resolve, to Create a Seamless  
Treatment Plan for the Juvenile  
Offender with Substance Abuse  
Problems**

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