

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

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NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

sioner shall establish a separate grievance process for addressing complaints by prisoners about their medical and mental health treatment.

See title page for effective date.

CHAPTER 660

H.P. 1602 - L.D. 2103

An Act Regarding Essential Programs and Services

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

Sec. 1. 20-A MRSA c. 606-B is enacted to read:

CHAPTER 606-B

ESSENTIAL PROGRAMS AND SERVICES

§15671. Essential programs and services

Essential programs and services are those educational resources that are identified in this chapter for all students to meet the standards in the 8 content standard subject areas of the system of learning results established in chapter 222. In order to achieve this system of learning results, school funding based on essential programs and services must be available in all schools on an equitable basis. Essential programs and services utilize resources including federal funds that are currently provided or could be adapted to implement a system of learning results, as well as additional resources that are also needed to ensure that these programs and services are available to all students. These essential programs and services must provide the basis for the system of school funding no later than 2007-08. School funding must be adequate to fully provide for all of the staffing and other material resource needs of the essential programs and services identified by the Legislature.

1. State and local partnership. The State and each local school administrative unit are jointly responsible for contributing to the cost of the components of essential programs and services described in this chapter. The state contribution to the cost of the components of essential programs and services, exclusive of federal funds that are provided and accounted for in the cost of the components of essential programs and services, must be made in accordance with this subsection:

A. The level of the state share of funding attributable to the cost of the components of essential programs and services must be at least 50% of eligible state and local General Fund education

costs statewide, no later than fiscal year 2007-08; and

B. Beginning in fiscal year 2003-04 and in each fiscal year until fiscal year 2007-08, the level of the state share of funding attributable to the cost of the components of essential programs and services must increase toward the 50% level of eligible state and local General Fund education costs.

Beginning in fiscal year 2003-04 and in each fiscal year thereafter, the commissioner shall use the funding level determined in accordance with this section as the basis for a recommended funding level for the state share of the cost of the components of essential programs and services.

2. Per-pupil guarantee amounts. A per-pupil guarantee represents the amount of funds that is to be made available for each subsidizable pupil. Three per-pupil guarantee amounts must be calculated, reflecting grade level cost differences: one for kindergarten to grade 5, one for grades 6 to 8 and one for grades 9 to 12. These per-pupil guarantees must be modified as appropriate for special student populations. The per-pupil guarantee represents the annual cost of staffing and material resources that are appropriately allocated on a per-pupil basis. Categories of staffing and resources are as follows:

A. School personnel, including regular and special subject teachers, educational technicians, guidance, library, health services, school administration, support or clerical staff and substitute teachers;

B. Supplies and equipment;

C. Specialized services, including professional development, instructional leadership support, student assessment, technology and cocurricular and extracurricular programs; and

D. School administrative unit services, including system administration and operation and maintenance of plant.

3. Specialized student populations. In recognition that educational needs can be more costly for some student populations than for others, modified per-pupil guarantee amounts or weighted pupil counts must be calculated for specialized student populations. The specialized student populations to be addressed are:

A. Special education students;

B. Limited English proficiency students;

C. Economically disadvantaged students; and

D. Students in kindergarten to grade 2.

4. Educational cost components outside the per-pupil guarantee. A per-pupil guarantee is not a suitable method for allocation of all educational cost components. These components may include, but are not limited to, debt service, transportation, bus purchases, vocational education, small school adjustments, teacher educational attainment and longevity of service and adjustments to general purpose aid. The funding methodology of these educational cost components must be established based on available research.

5. Local control of expenditures. Except for those components that are targeted funds, funds provided for the essential programs and services described in this section must be distributed as general purpose aid for local schools, and each school administrative unit shall make its own determination regarding the configuration of resources best suited for its pupils and how to allocate available funds for these resources.

6. Targeted funds. Funds for technology, assessment and the costs of additional investments in educating children in kindergarten to grade 2 must be provided as targeted grants. School administrative units shall submit a plan for the use of these funds and shall receive funding based on approval of the plan by the commissioner.

Sec. 2. Recommended funding levels for fiscal year 2003-04. In addition to the fiscal year 2003-04 funding level that is recommended by the Commissioner of Education to the Governor as prescribed in the Maine Revised Statutes, Title 20-A, section 15605, the Commissioner of Education shall also recommend at the same time an alternative funding level for fiscal year 2003-04 for consideration by the State Board of Education, the Governor and the Legislature.

1. Basis. The alternative funding level for fiscal year 2003-04 must be based on the essential programs and services funding model, as described in the Maine Revised Statutes, Title 20-A, chapter 606-B, and must contain the elements described in more detail in the report issued by the State Board of Education to the 119th Legislature pursuant to Public Law 1997, chapter 24, Part X, with any refinements and updates to those elements that have been endorsed by the State Board of Education prior to the time of the Commissioner of Education's recommendation for fiscal year 2003-04, provided those refinements and updates are consistent with the report on school funding issued in January 2002 by the Joint Standing Committee on Education and Cultural Affairs.

2. Public input. Prior to the determination by the State Board of Education of the elements of essential programs and services to be used in the Commissioner of Education's recommended alternative funding level for fiscal year 2003-04, the State Board of Education in conjunction with the Commissioner of Education shall hold such public forums on the proposed elements as are appropriate to inform and solicit input from key stakeholders and the public.

3. Issues identified by Commissioner of Education. If the Commissioner of Education, in developing the recommended alternative funding level for fiscal year 2003-04, identifies issues that have not been sufficiently addressed by the prior reports and actions of the State Board of Education, then the commissioner may recommend resolutions to these issues in the presentation of the alternative funding level for fiscal year 2003-04.

4. Revisions to school finance laws. With the recommended alternative funding level for fiscal year 2003-04, the Commissioner of Education shall present to the State Board of Education and to the Legislature any proposed statutory language necessary to implement the essential programs and services funding model, beginning in fiscal year 2003-04. This proposed statutory language must include the consolidation and simplification of existing laws regarding school finance. The Commissioner of Education may request drafting assistance to be performed prior to the convening of the 121st Legislature from the Legislative Council in drafting any proposed statutory language to amend the existing school finance laws. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide the necessary drafting assistance.

Sec. 3. Phase-in. The essential programs and services approach to school funding must be phased in over a period of time beginning in fiscal year 2003-04. The essential programs and services approach to school funding must be fully implemented by fiscal year 2007-08. The details of this phase-in plan must be presented to the State Board of Education and the Legislature in conjunction with the Commissioner of Education's recommended alternative funding level for fiscal year 2003-04. The phase-in plan must address the relation between the essential program and services funding model and the levels of state funding necessary to reach a state share of funding of at least 50% of eligible general fund education costs statewide, exclusive of federal funds accounted for under the model.

Sec. 4. Subsidy cushions. During the phase-in period described in this Act, the impact of any reduction in subsidy between consecutive years for any school administrative unit must be cushioned. Because such cushions are inequitable, the level of the

cushion must decline each year, with cushions related to the phase-in of the essential programs and services approach to school funding ending no later than fiscal year 2007-08.

Sec. 5. Best practices. The State Board of Education shall provide for ongoing research to identify those best practices in schools that increase student performance or improve efficient operation and use of resources. The State Board of Education, in its report on essential programs and services to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs, shall provide information about best methods for promoting the use of these practices in school administrative units.

Sec. 6. Report. By January 15, 2003, the State Board of Education and the Commissioner of Education shall report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs with recommendations and proposed statutory language for full implementation of a system of school funding and accountability for resources based on essential programs and services, including comprehensive revisions to the current school finance laws. In conjunction with the State Board of Education, the Education Research Institute shall examine what basis there may be for recognizing legitimate regional differences. The report and the accompanying proposed statutory language must include, but are not limited to, any recommendations as appropriate on the following:

1. Determination of component costs. Methods of determining costs for each of the components described in this Act;

2. Adjustments to component costs. Periodic adjustments to these components and to the calculated costs;

3. Implementation strategies. Strategies for implementing the findings and recommendations of follow-up studies on essential programs and services previously directed by the Legislature;

4. Regional cost adjustment. A regional cost adjustment for legitimate regional differences in the cost of components, including what basis there may be for recognizing legitimate regional differences in the essential programs and services model;

5. Recruitment and retention adjustment. Any adjustments for educator recruitment and retention through equitable compensation;

6. Tax effort. The impact of essential programs and services on tax effort; and

7. State share. A transition plan to full implementation of this new funding system, including the 50% state share of eligible state and local General Fund education costs statewide, beginning in fiscal year 2003-04 and completed no later than fiscal year 2007-08.

The State Board of Education and the Commissioner of Education may introduce legislation related to their report to the First Regular Session of the 121st Legislature at the time of submission of their report.

Sec. 7. Waiver. Notwithstanding any other provision of law, a school administrative unit or a private school approved for tuition that enrolls at least 60% publicly funded students may apply for a waiver from compliance with the local assessment system provisions required in the Maine Revised Statutes, Title 20-A, section 6202-A or with the time-line requirements for implementation of the standards in the content areas of career preparation, foreign languages and visual and performing arts as required in Title 20-A, section 6209, subsection 3.

1. Application. The application for a waiver of these requirements must contain the following:

A. Documentation of actions taken to meet the requirements prior to applying for the waiver;

B. A description of the unforeseen circumstances or undue hardships that led to the application;

C. A statement of financial hardship, if applicable; and

D. The plan that the school administrative unit or the private school will implement to come into compliance with the requirements of the applicable statute.

2. Actions of the Commissioner of Education. The Commissioner of Education may grant the waiver in the following circumstances:

A. Based on the receipt of an application for a waiver that contains the information described in subsection 1, paragraphs A, C and D, the Commissioner of Education shall grant a one year waiver from the requirements of the Maine Revised Statutes, Title 20-A, section 6202-A, subsection 3 or 4 so that student achievement of the content standards of the system of learning results in health and physical education, science and technology and social studies is not required for high school graduation in the school administrative unit or the private school until the 2007-2008 school year;

B. Upon finding that due to unforeseen circumstances or undue hardships, including financial hardship, the school administrative unit or private school is unable to comply with the applicable statute and that the compliance plan that the school administrative unit or private school has submitted is reasonable; or

C. Upon finding that student performance in the school administrative unit or private school exceeds expectations and that there is a personal learning plan aligned with the system of learning results developed for each student in the school administrative unit or private school.

Sec. 8. Implementation analysis. The Task Force to Review the Status of Implementation of the System of Learning Results, referred to in this section as the "task force," is established to study and assess the status of implementation of the system of learning results in schools throughout the State.

1. Membership. The task force consists of the following 13 members:

- A. The Commissioner of Education or the commissioner's designee;
- B. The Chair of the State Board of Education or the chair's designee;
- C. Two superintendents appointed by the Maine School Superintendents Association;
- D. Two school board members appointed by the Maine School Boards Association;
- E. Two principals appointed by the Maine Principals' Association;
- F. Four teachers appointed by the Maine Education Association; and
- G. One member of the Maine Coalition for Excellence in Education appointed by the Maine Coalition for Excellence in Education.

2. Chair. The task force shall select a chair at the first meeting of the task force.

3. Appointments; convening of task force. All appointments must be made no later than 30 days following the adjournment date of the 2nd Regular Session of the 120th Legislature. The appointing authorities shall notify the Commissioner of Education once all appointments have been completed. Within 15 days after appointment of all members, the Commissioner of Education or the commissioner's designee shall call and convene the first meeting of the task force.

4. Duties. The task force shall:

A. Conduct a full and complete assessment of the implementation of the system of learning results in each school administrative unit in the State;

B. Examine what actions are needed to adhere to the time lines for implementation of the system of learning results as required by current statute and rules; and

C. Consider the requirements of the federal Elementary and Secondary Education Act of 1965, ESEA, 20 United States Code, chapter 1301, et seq., as amended by Public Law 107-110, and, to the extent that the ESEA requirements affect the implementation of the system of learning results, the task force shall include in its report specific recommendations concerning the implementation of such requirements.

5. Staffing assistance; technical assistance.

The Department of Education shall provide necessary staffing services to the task force. In conjunction with the State Board of Education and the Department of Education, the Education Research Institute shall provide technical assistance to the task force as specified in this subsection.

A. On behalf of the task force, the Chair of the State Board of Education shall enter into a project agreement with the Steering Committee of the Education Research Institute to provide technical assistance to the task force, which must include, but may not be limited to, designing an appropriate methodology and assessment instrument for the collection, analysis and reporting of data necessary to accomplish the duties established for this implementation analysis.

B. The Education Research Institute may receive input from the task force regarding the appropriate methodology necessary prior to the collection of data. The Chair of the State Board of Education shall request that the Steering Committee of the Education Research Institute approve the addition of a targeted research project to the fiscal year 2002-03 work plan to permit Education Research Institute researchers to provide such technical assistance as may be required by the task force and as may be in accordance with the project agreement.

C. On behalf of the task force, the Department of Education or any contracted service provider that the department may designate shall implement the data collection as agreed upon by the task force and the Education Research Institute and shall further provide that the data collected

from the assessment instrument is forwarded to the Education Research Institute for compilation.

D. Following its compilation of the assessment data, the Education Research Institute shall provide the data collected from the assessment instrument to the task force. The task force shall conduct its own implementation analysis on the assessment data collected and shall use these data in the development of its report and recommendations.

E. On behalf of the task force, the Department of Education shall provide advance notice of the agenda, the time and the location established for each meeting of the task force, including the minutes or meeting summary of the preceding task force meeting, to the members of the Joint Standing Committee on Education and Cultural Affairs.

6. Report. The task force shall submit its report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs during the First Regular Session of the 121st Legislature no later than January 15, 2003. The task force report must include specific findings regarding the current levels of school administrative unit implementation of the system of learning results, as well as a recommended plan of action to meet any deficiencies identified in this implementation analysis. The task force is not authorized to introduce legislation. Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs may report out a bill to the First Regular Session of the 121st Legislature.

7. Budget. The Department of Education shall provide funding for the task force from federal funds that are allocated to the Department of Education for expenditure in fiscal year 2002-03 to provide school administrative unit accountability for students meeting the state standards. Funds provided by the Department of Education to carry out this implementation analysis may not exceed \$10,000.

See title page for effective date.

CHAPTER 661

H.P. 1685 - L.D. 2184

An Act to Implement the Recommendations of the Returnable Container Handling and Collection Study

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

Sec. 1. 32 MRSA §1861, sub-§2, as amended by PL 1979, c. 731, §19, is further amended to read:

2. Intent. It is the intent of the Legislature to create incentives for the manufacturers, distributors, dealers and consumers of beverage containers to reuse or recycle beverage containers thereby removing the blight on the landscape caused by the disposal of these containers on the highways and lands of the State and reducing the increasing costs of litter collection and municipal solid waste disposal.

~~This chapter will be administered by the Department of Agriculture, Food and Rural Resources with the authority to interpret the chapter and to issue the necessary rules and regulations in order to carry it into effect.~~

Sec. 2. 32 MRSA §1862, sub-§§8-A and 8-B are enacted to read:

8-A. Initiator of deposit. "Initiator of deposit" means a manufacturer, distributor or other person who initiates a deposit on a beverage container under section 1863-A.

8-B. Local redemption center. "Local redemption center" means a place of business that deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and that must be licensed under section 1871-A.

Sec. 3. 32 MRSA §1865, sub-§3 is enacted to read:

3. Label registration. An initiator of deposit shall register the container label of any beverage offered for sale in the state on which it initiates a deposit. Registration must be on forms or in an electronic format provided by the department and shall include the universal product code for each combination of beverage and container manufactured. The initiator of deposit shall renew a label registration annually and whenever that label is revised by altering the universal product code or whenever the container on which it appears is changed in size, composition or glass color. The initiator of deposit shall also include as part of the registration the method of collection for that type of container, identification of a collection agent and proof of the collection agreement. The department may charge a fee for registration and registration renewals under this subsection. Rules adopted pursuant to this subsection that establish fees are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters.