

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2002**

1. Legal review by the Attorney General or the Attorney General's designee; and

2. Public comment on a proposed easement. The working group shall identify a process for the release of information to the public, including a description of the proposed project, a summary of provisions to be included in the easement, a draft of the proposed easement and public notice with an address and deadline for submitting comments on the proposed easement. The working group shall develop guidelines for holding public meetings on projects as part of the process. In developing this process, the working group shall make recommendations regarding the protection of information to preserve the State's negotiating position; and be it further

**Sec. 3. Criteria for easements to be developed by working group. Resolved:** That the working group described in section 1 shall continue and finalize its work on developing criteria for acquiring public access rights when acquiring interest in a property using state funds. For easements in which the right to harvest timber is retained by the landowner, the criteria must include, at a minimum, the right of the public to use the property for traditional, nonmotorized recreation including fishing, hiking, hunting, snowshoeing and nature observation.

The working group shall continue and finalize its work on developing model language to be used for negotiating a major conservation easement when state funds are used to acquire the easement. When the right to harvest timber is retained by the landowner, the model language must provide that the forest be managed to maintain the property's potential to provide fiber and timber and that forest management operations on the land use best management practices. The working group shall finalize guidelines being developed for evaluating the advisability and cost of including additional enforceable conditions to ensure sustainable forest management. These guidelines must also provide definitions and specify measures for monitoring compliance; and be it further

**Sec. 4. Notices and report. Resolved:** That the Director of the State Planning Office, within the Executive Department, shall provide members of the Joint Standing Committee on Agriculture, Conservation and Forestry with notices of all remaining meetings of the working group. No later than January 15, 2003, the director shall report to the joint standing committee of the Legislature having jurisdiction over public lands matters with a summary of the group's activities and the guidelines and processes established in accordance with this resolve; and be it further

**Sec. 5. Funding. Resolved:** That notwithstanding the Maine Revised Statutes, Title 5, section 6203, the State Controller shall transfer \$470 from the

Land for Maine's Future Fund to the Legislature to fund the Legislator who participates in the working group. These funds must be used for all costs incurred to pay the per diem and expenses of the Legislator who participates in the working group; and be it further

**Sec. 6. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

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Initiative: Provides funds for the per diem and expenses of one Legislator who served on the Committee to Study Access to Private and Public Lands in Maine to participate in a working group.

<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
Personal Services	\$0	\$220
All Other	0	250
	\$0	\$470

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<b>DEPARTMENT TOTAL</b>	<b>2001-02</b>	<b>2002-03</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$470</b>

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

Effective April 11, 2002.

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**CHAPTER 117**

**H.P. 1624 - L.D. 2124**

**Resolve, Regarding Legislative Review of Portions of Chapter 126: Immunization Requirements for School Children, a Rule of the Department of Human Services, and Portions of Chapter 261: Immunization Requirements for School Children, a Rule of the Department of Education, Major Substantive Rules Jointly Adopted by the Department of Human Services and the Department of Education**

**Mandate preamble; rules.** This measure authorizes final adoption of a rule that requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues for which funding for at least 90% of those expenditures has not been provided. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all the members elected to each House

have determined it necessary to enact this measure authorizing the rule that represents a state mandate.

**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 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 rules have 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 rules; 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 Chapter 126: Immunization Requirements for School Children, a rule of the Department of Human Services, and portions of Chapter 261: Immunization Requirements for School Children, a rule of the Department of Education, provisionally adopted major substantive rules jointly adopted by the Department of Human Services and the Department of Education, that have been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A is authorized only if the rules are amended as follows.

1. The rules must be amended to add the word "public" before the phrase "health official" when describing who can present a school with a Certificate of Immunization.

2. The rules must be amended to include the school physician along with the superintendent as an individual who can exclude from public school any child or employee who has contracted or has been exposed to a communicable disease.

3. The rules must be amended to change "may not" to "shall not" in the sentence that prohibits a child from returning to school when the child has not received all the required vaccines.

4. The rules must be amended to change "administrators" to "superintendents" when describing with whom the results of a sample survey to identify

problem areas that may be occurring in the completion of school health records will be shared.

5. The rules must be amended to change "regulation of school board" to "regulation of school board policy" when describing the mechanisms by which additional requirements regarding immunization requirements for children can be adopted.

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

Effective April 11, 2002.

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## CHAPTER 118

H.P. 1635 - L.D. 2138

**Resolve, Regarding Legislative  
Review of Portions of Chapter 750:  
Standardized Health Plans, Part II  
HMO Guidelines, a Major  
Substantive Rule of the Department  
of Professional and Financial  
Regulation**

**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 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 Chapter 750: Standardized Health Plans, Part II HMO Guidelines, a provisionally adopted major substantive rule of the Department of Professional and Financial Regulation, that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A is authorized.