

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

## CHAPTER 153

## H.P. 828 - L.D. 1200

**An Act To Establish a Uniform  
Private Facilities Tuition Rate  
Establishment Procedure**

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

**Sec. 1. 20-A MRSA c. 117, sub-c. 2**, as amended, is further amended by repealing the subchapter headnote and enacting the following in its place:

**SUBCHAPTER 2**

**APPROVAL FOR THE RECEIPT OF PUBLIC FUNDS BY PRIVATE SCHOOLS**

**Sec. 2. 20-A MRSA §2951, first ¶**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A private ~~secondary~~ school may be approved for the receipt of public funds for tuition purposes only if it:

**Sec. 3. 20-A MRSA §2952**, as amended by PL 1983, c. 806, §28, is further amended to read:

**§2952. Report to commissioner**

A private ~~secondary~~ school receiving state funds, either directly or indirectly, and a private school approved for tuition and attendance purposes shall annually, ~~on or before July 15th in accordance with time schedules established by the commissioner~~, report to the commissioner the information the commissioner may require.

**Sec. 4. 20-A MRSA §2953**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**§2953. Audit**

The following audit ~~shall~~ **must** be made.

**1. Annual audit.** A private ~~secondary~~ school approved for tuition purposes shall, on or before September 1st of each year, furnish to the State Auditor satisfactory proof that the books, accounts, financial documents and reports to the commissioner of the ~~academy school~~ for the preceding fiscal year have been examined and found to be in a satisfactory and accurate condition with proper vouchers on file. An audit ~~shall~~ **must** be made by the Department of Audit or by individuals or firms recognized as competent auditors by training and experience or by qualified public accountants.

**2. Special audit.** Audits by the State Auditor may be requested by 3 or more duly elected and qualified officers of the private ~~secondary~~ school. This audit ~~shall~~ **must** be conducted at the expense of the requesting ~~academy school~~ except when the audit is ~~deemed~~ **determined** necessary by the commissioner.

**Sec. 5. 20-A MRSA §2955**, as amended by PL 1983, c. 859, Pt. A, §§11 and 25, is further amended to read:

**§2955. Penalty for noncompliance**

Private ~~secondary~~ schools approved for tuition purposes ~~which that~~ have not complied with this chapter may not receive tuition payments from any school administrative unit.

**Sec. 6. 20-A MRSA §7302, sub-§2**, as amended by PL 1983, c. 278, §2, is further amended to read:

**2. Private special education facilities; private general purpose agencies.** Private agencies that operate facilities ~~which that~~ exclusively serve exceptional students and private general purpose agencies that receive state aid for special education programs shall comply with the following in computing tuition rates.

A. All tuition rates ~~shall be~~ **are** subject to approval by the commissioner.

B. The tuition rates ~~shall~~ **may** not exceed the actual per student cost incurred in the operation during the preceding school year.

C. The commissioner shall adopt or amend rules to define allowable expenditures used to determine per student costs.

D. An agency shall file an annual financial report detailing the allowable expenditures and the computation of the tuition rate at such time and in the form the commissioner may require.

E. Increases in the tuition rate from one year to the next may not exceed ~~15%~~ **the tuition rate established through negotiation** unless evidence is presented to the commissioner that a hardship will exist if a higher rate of increase is not approved, and this evidence is ~~deemed~~ **determined** sufficient by the commissioner.

F. The commissioner shall establish a tuition rate for new special education programs in special purpose private schools and private general purpose agencies based on the estimated allowable costs of these schools.

**Sec. 7. 20-A MRSA §7302, sub-§3**, as amended by PL 1997, c. 736, §1, is repealed.

See title page for effective date.

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## CHAPTER 154

H.P. 517 - L.D. 722

### An Act Deleting Gender-specific and Archaic Language from Certain Laws Concerning the Office of the Attorney General

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

**Sec. 1. 5 MRSA §196**, as amended by PL 1989, c. 410, §14, is further amended to read:

**§196. Deputies and assistants; appointment and duties**

The Attorney General may appoint one or more deputy attorneys general, assistant attorneys general and staff attorneys who ~~shall~~ serve ~~during~~ at the pleasure of the Attorney General or until their successors are duly appointed and qualified. They may perform all the duties required of the Attorney General and ~~such~~ other duties as the Attorney General may ~~delegate~~ delegates to them. The Attorney General may appoint ~~such~~ research assistants with ~~such~~ any powers and duties as the Attorney General may ~~delegate~~ delegates. Research assistants may perform ~~such~~ duties as may be delegated to them by the Attorney General, including ~~such~~ activities as ~~are~~ authorized by Title 4, section 807. Notwithstanding any other provisions of law, the ~~compensation~~ compensations of research assistants, law office manager and deputy attorneys general ~~shall be~~ are fixed by the Attorney General. The compensations of the staff attorneys, assistant attorneys general and secretary to the Attorney General ~~shall be~~ are fixed by the Attorney General with the approval of the Governor, but such compensations ~~shall may~~ not in the aggregate exceed the amount appropriated ~~therefor~~ for those positions and ~~shall may~~ not result in an increased request to future Legislatures.

Notwithstanding any other provision of law, whenever the written approval of the Attorney General is required by statute or court rule and the Attorney General either is unavailable to act upon the matter or has determined that it would be legally or ethically improper for ~~him~~ the Attorney General to do so, the

required approval may be given by a deputy attorney general specifically authorized in writing by the Attorney General to act on ~~his~~ the Attorney General's behalf in these situations.

See title page for effective date.

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## CHAPTER 155

S.P. 194 - L.D. 585

### An Act To Reauthorize the Petroleum Market Share Act

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

**Whereas**, this legislation needs to take effect before the expiration of the 90-day period in order to prevent the repeal of certain portions of the Petroleum Market Share Act; 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 enacted by the People of the State of Maine as follows:**

**Sec. 1. 3 MRSA §959, sub-§1, ¶C**, as amended by PL 2003, c. 600, §1, is further amended to read:

C. The joint standing committee of the Legislature having jurisdiction over business, research and economic development matters shall use the following list as a guideline for scheduling reviews:

- (1) Maine Development Foundation in 2005;
- (5) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, in 2007;
- (19) Department of Economic and Community Development in 2005;
- (23) Maine State Housing Authority in 2007;
- (32) Finance Authority of Maine in 2009;