

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.

Penmor Lithographers
Lewiston, Maine
2005

CHAPTER 93**H.P. 800 - L.D. 1157****Resolve, Directing the Department of Education and the Department of Environmental Protection To Implement Procedures To Remove Hazardous Materials from Maine Schools**

Sec. 1. Implementation of proposal. Resolved: That the Department of Education and the Department of Environmental Protection shall implement the proposal dated May 10, 2005 and presented to the Joint Standing Committee on Natural Resources on May 10, 2005 regarding the removal of hazardous materials from schools. The objective of the proposal includes achieving compliance with the Maine Revised Statutes, Title 20-A, section 4001 and Chapter 161 of the rules administered by the Department of Education; and be it further

Sec. 2. Report and recommendations. Resolved: That, by January 15, 2006, the Department of Education and the Department of Environmental Protection shall jointly report to the Joint Standing Committee on Natural Resources on the effectiveness of the efforts undertaken pursuant to this resolve. If changes in procedures, rules or law are needed, the report must include recommendations for changes.

See title page for effective date.

CHAPTER 94**H.P. 1105 - L.D. 1567****Resolve, Encouraging the Continuing Education of Physicians Regarding Disclosure of Confidential Medical Information**

Sec. 1. Inclusion of information regarding authority of agents to receive medical information. Resolved: That the Department of Health and Human Services shall invite professional associations of health care providers to include information in continuing education presentations that makes clear that agents appointed through a power of attorney are entitled to receive the same information as the principal and that the "minimum necessary" standard of the federal Health Insurance Portability and Accountability Act of 1996, 42 United States Code, Section 1320d et seq., "HIPAA," privacy rule does not

apply to releases of protected health information to principals or their agents.

See title page for effective date.

CHAPTER 95**H.P. 967 - L.D. 1390****Resolve, Regarding Legislative Review of Chapter 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization**

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 2-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 Chapter 120: Release of Data to the Public, a provisionally adopted major substantive rule of the Maine Health Data Organization that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized provided the rule is amended to add the following provisions:

1. In section 9, on review of requests for clinical data, in paragraph A, subsection 4, language must be added providing a health care quality exception and extending the exception that applies to an authorized public health study to health care quality analyses;

2. In section 9, on review of requests for clinical data, in paragraph B, subsection 2, language must be added providing a reference to the health care quality exception; and

3. In section 9, on review of requests for clinical data, a new paragraph E must be added to provide a health care quality exception to allow release of data that identifies individual health care practitioners to the Maine Quality Forum for the purpose of undertaking health care quality analyses pursuant to the Maine Revised Statutes, Title 24-A, chapter 87, subchapter 2.

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

Effective June 7, 2005.

CHAPTER 96

H.P. 1167 - L.D. 1656

Resolve, To Retain Maine's Theater Arts and Dance Teachers

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

Whereas, rules adopted by the Department of Education relating to requirements for specific certificates and endorsements for teachers are scheduled to become effective August 1, 2005; and

Whereas, this legislation exempts from application of the new requirements certain theater arts and dance teachers who are employed in an accredited public or private school in the State as of October 1, 2005; 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. Rules; certification. Resolved: That the State Board of Education shall amend Chapter 115: Certification, Authorization and Approval of Educational Personnel, a rule of the Department of Education, to permit certification of persons who are teaching theater arts or dance in the State as of October 1, 2005 and who hold valid certification to teach in the State and have completed a minimum of 2 school years or the equivalent of 2 school years of teaching theater arts or dance in an accredited public or private school in the State.

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

Effective June 7, 2005.

CHAPTER 97

H.P. 1182 - L.D. 1674

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

Preamble. The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House.

Whereas, certain real estate authorized for conveyance by this resolve is under the designations described in the Maine Revised Statutes, Title 12, section 598-A; and

Whereas, the Director of the Bureau of Parks and Lands within the Department of Conservation may sell or exchange lands with the approval of the Legislature in accordance with the Maine Revised Statutes, Title 12, sections 1837 and 1851; now, therefore, be it

Sec. 1. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain real estate in Chesuncook Township, County of Piscataquis. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant convey for appraised fair market value and for private uses, and on such other terms and conditions as the director may direct, to David and Luisa Surprenant a certain lot of land in Chesuncook Township (T5 R13 WELS) located in Chesuncook Village, Maine, being approximately 2.2 acres in size and which is described in a lease currently held by said David and Luisa Surprenant, as lessees, said lease dated February 9, 2000, with the department as lessor; and be it further

Sec. 2. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain real estate in Wyman Township, County of Franklin. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant convey for appraised fair market value, and on such other terms and conditions as the director may direct, to Gareth V. Warren a certain lot of land in Wyman Township, Maine, being approximately 0.36