

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

Standing Committee on Utilities and Energy by November 1, 2010.

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

Effective April 1, 2010.

CHAPTER 197

H.P. 389 - L.D. 551

Resolve, To Direct the Commissioner of Education To Review the Essential Programs and Services Funding Formula

Sec. 1. Review. Resolved: That the Commissioner of Education, in conjunction with the Maine Education Policy Research Institute, shall conduct a review of certain education finance and policy issues associated with The Essential Programs and Services Funding Act established under the Maine Revised Statutes, Title 20-A, chapter 606-B. In conducting this review, the Commissioner of Education and the Maine Education Policy Research Institute shall:

1. Analyze the components of the essential programs and services funding formula, including analyses of:

A. The original policy goal or educational objective established for each of the essential programs and services cost components and a detailed description of the original and current methodology used to calculate the resources determined to be adequate for each cost component;

B. The subsidy distribution methodology originally established for the essential programs and services funding formula and the subsidy distribution methodology currently included in the school funding formula; and

C. The practices found in schools identified as higher-performing, more efficient schools and schools identified as lower-performing, less efficient schools by the Maine Education Policy Research Institute, including the best practices found in higher-performing, more efficient schools where the actual educational performance of specialized student populations exceeds the expected performance for these specialized student populations as compared to the actual and expected educational performance of similar students in other schools in the State;

2. Evaluate the current statutory framework related to the Commissioner of Education's annual funding level computations and funding level recommendations as set forth in the Maine Revised Statutes, Ti-

tle 20-A, chapter 606-B, as well as the provisions that provide for reviewing and updating certain essential programs and services cost components using information provided by a statewide educational policy research institute;

3. Propose any necessary changes to the current mechanisms that would permit the joint standing committee of the Legislature having jurisdiction over education matters the opportunity to review the most recent data available as the Legislature considers the enactment of legislation to appropriate the necessary funds for the State's share of the general purpose aid for local schools program and any changes to the essential programs and services funding formula necessary to respond to changing conditions; and

4. Make recommendations on the components and issues included in this section and on other matters relating to the essential programs and services funding formula; and be it further

Sec. 2. Report. Resolved: That, no later than January 3, 2011, the Commissioner of Education and the Maine Education Policy Research Institute shall submit a report that includes their findings and recommendations, including any suggested legislation, to the joint standing committee of the Legislature having jurisdiction over education matters.

See title page for effective date.

CHAPTER 198

H.P. 1194 - L.D. 1693

Resolve, Regarding a Report on the Status of Federal Ship Ballast Water Discharge Rules

Sec. 1. Report. Resolved: That the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 5, 2012 on the status of rulemaking by the United States Coast Guard relating to ship ballast water discharge.

See title page for effective date.

CHAPTER 199

H.P. 1195 - L.D. 1694

Resolve, To Increase Transparency and Accountability and Assess the Impact of Tax Expenditure Programs

Sec. 1. Commissioner of Administrative and Financial Services to convene working group. Resolved: That the Commissioner of Administrative and Financial Services shall convene a working group consisting of representatives of the Department of Administrative and Financial Services, Bureau of Revenue Services; the Department of Economic and Community Development; the Executive Department, State Planning Office; and any other state agency the commissioner considers appropriate. The working group shall:

1. Define the purpose of each tax expenditure program identified by the working group as subject to the information collection requirements of this resolve;

2. Design a method to collect data that measure the economic impact of tax expenditure programs, including, but not limited to, revenue loss versus economic gain, jobs created or lost and administrative burden. In designing the method, the working group shall examine practices in other states and other issues the working group considers relevant;

3. Recommend a regular reporting schedule for the tax expenditure program economic impact data to the joint standing committees of the Legislature having jurisdiction over taxation matters, appropriations and financial affairs and business, research and economic development matters; and

4. Recommend a regular schedule of review of the tax expenditure program economic impact data by the joint standing committee of the Legislature having jurisdiction over taxation matters; and be it further

Sec. 2. Report. Resolved: That, no later than November 3, 2010, the Commissioner of Administrative and Financial Services shall submit a report containing the working group's findings and recommendations to the joint standing committees of the Legislature having jurisdiction over taxation matters, appropriations and financial affairs and business, research and economic development matters.

See title page for effective date.

CHAPTER 200

H.P. 1238 - L.D. 1741

Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation, a Major Substantive Rule of the Department of Education

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

PART A

Sec. A-1. Adoption. Resolved: That final adoption of portions of Chapter 101: Maine Unified Special Education Regulation, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the provisionally adopted rule is amended as follows:

1. The rule must be amended in Section II to clarify the definition of "educational performance" by incorporating a reference to the definition of "functional performance" and to provide that this change applies only through June 30, 2011 and the former rule is restored on that date;

2. The rule must be amended in Section II to incorporate a new definition of "formative assessment" to be used for the purposes of general education interventions;

3. The rule must be amended in Section III to revise the provisions regarding pre-referral procedure by inserting a new part to establish the procedures that school administrative units must develop in implementing general education interventions and adjusting section headings to reflect this change;

4. The rule must be amended in Section VI and in Section IX to strike the provisions that proposed to permit the Individualized Education Program Team to begin postsecondary transition planning at age 16 or younger for the student and instead to provide that postsecondary transition planning for the student must begin no later than the beginning of grade 9;

5. The rule must be amended in Section VII in the part concerning other health impairment to refine the procedural steps established for determining eligibility for the other health impairment disability;

6. The rule must be amended in Section XVI to clarify that a complaint for an alleged violation under