

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

§9005. Prohibited employment

1. Criminal history record information. A veterans' adult day health care program shall obtain criminal history record information about applicants for positions as unlicensed assistive personnel as defined in section 1717, subsection 1, paragraph D and may not hire an individual who:

A. Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants;

B. Has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property in a health care setting; or

C. Has a prior criminal conviction within the last 10 years of:

(1) A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

(2) A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

Sec. 2. Initial veterans' adult day health care program. The Department of Health and Human Services shall give initial consideration for licensure of a veterans' adult day health care program under the Maine Revised Statutes, Title 22, chapter 1689 to an applicant who proposes to establish a program in the Lewiston area.

See title page for effective date.

CHAPTER 445

H.P. 955 - L.D. 1303

An Act To Increase the Fee Paid to a Funeral Home To Transport a Body at the Request of the State Medical Examiner

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

Sec. 1. 22 MRSA §3024, 4th ¶, as amended by PL 2001, c. 222, §3, is further amended to read:

The Chief Medical Examiner may authorize any other expenses necessary to carry out the Chief Medical Examiner's duties. The Chief Medical Examiner

shall reimburse a funeral establishment that transports a body to Augusta at the request of the Office of Chief Medical Examiner at the following rates: for up to and including the first 25 miles, \$120; for the next 25 miles, \$2 per mile traveled while actually transporting a body; and for miles in excess of 50, \$1.75 per mile traveled while actually transporting a body.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE

Chief Medical Examiner - Office of 0412

Initiative: Provides funds to increase the reimbursement rate paid to a funeral home for transporting a body to the State Medical Examiner.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$35,000
GENERAL FUND TOTAL	\$0	\$35,000

Sec. 3. Effective date. This Act takes effect July 1, 2012.

Effective July 1, 2012.

CHAPTER 446

S.P. 466 - L.D. 1488

An Act To Create Innovative Public School Zones and Innovative Public School Districts

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

Sec. 1. 20-A MRSA c. 114-A is enacted to read:

CHAPTER 114-A

FUND FOR THE EFFICIENT DELIVERY OF EDUCATIONAL SERVICES

§2651. Fund for the Efficient Delivery of Educational Services

1. Fund created. The Fund for the Efficient Delivery of Educational Services, referred to in this chapter as "the fund" is created to assist in financing the cost of local and regional initiatives to improve educational opportunity and student achievement through more efficient delivery of educational services. The fund is a dedicated, nonlapsing account within the department.

2. Use of fund. The department shall award grants from the fund to school administrative units, municipalities, counties and groups of 2 or more such entities to fund the costs of implementing changes in governance, administrative structures or policies that result in the creation of consolidated school administrative units; purchasing alliances; innovative, autonomous public schools, innovative public school districts or innovative public school zones; regional delivery of educational services; or collaborations of municipal-school service delivery or support systems, with the purpose of improving educational opportunity and student achievement. Grants must be used to implement changes that will be sustained by the school administrative unit, municipality or county without the need for additional grants from the fund or other sources.

3. Grant criteria. Grants must be awarded on a competitive basis, in accordance with procedures and criteria set forth in rules adopted by the department. The rules must give priority to projects that:

A. Involve 2 or more school administrative units, municipalities, counties or a combination of these entities;

B. Are sufficiently developed to be implemented in a short period of time after the award of the grant;

C. Expand access to professional development, training and support for teachers and school administrators; more fully integrate educational technology and expand access to online and digital learning opportunities; improve management and use of data to enhance instruction and increase student achievement; broaden access to opportunities for career and technical education; expand access to early college opportunities for high school students; or increase student choice; or

D. Implement projects that have demonstrated significant and sustainable savings in the cost of delivering educational services and improving student achievement.

4. Sources of money. The fund consists of amounts appropriated or allocated by the State and any gifts or grants made to the department for the purpose of deposit in the fund.

5. Rules. Rules adopted by the department to implement this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 20-A MRSA §6213 is enacted to read:

§6213. Innovative public school zones and innovative public school districts

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Innovative, autonomous public school" or "school" means an innovative, autonomous public school established pursuant to section 6212.

B. "Innovation plan" means a plan for the creation and operation of an innovative, autonomous public school or innovative zone or district as described in subsections 2, 3 and 4.

C. "Innovative public school district" or "district" means a school administrative unit in which all schools operated by the school administrative unit are innovative, autonomous public schools included in an innovation plan approved pursuant to this section and implemented by the school board.

D. "Innovative public school zone" or "zone" means 2 or more innovative, autonomous public schools operated by a school administrative unit that share common interests, such as their geographical location or educational focus, or that sequentially serve classes of students as they progress through elementary and secondary education and in which a school board implements an innovation plan approved pursuant to this section.

E. "Public school" has the same meaning as in section 1, subsection 24.

2. School-initiated innovation plan. A public school or a group of 2 or more public schools in a school administrative unit may submit to its school board an innovation plan. The school board may approve an instruction design, a school calendar, a staff selection process and a method for assessing professional development to be used in an innovative, autonomous public school that is not in conflict with applicable statutory and regulatory requirements.

A. A school board shall receive and review each innovation plan submitted pursuant to this subsection. The school board shall either approve or disapprove the innovation plan within 60 days after receiving the plan.

B. If the school board rejects the innovation plan, it shall provide to the public school or public schools that submitted the plan a written explanation of the basis for its decision. A public school or public schools may submit an amended innovation plan at any time.

C. If the school board approves the plan, it shall proceed to seek the commissioner's approval of the public school or public schools as an innovative, autonomous public school, an innovative public school zone or an innovative public school district pursuant to subsection 9.

3. Board-initiated innovation plan. A school board may initiate and collaborate with one or more public schools within the school administrative unit to create one or more innovation plans. In creating an innovation plan, the school board shall ensure that

each public school that would be affected by the plan has the opportunity to participate collaboratively in the creation and implementation of the plan.

4. Innovation plan. An innovation plan must include the following information:

A. A statement of the mission of the school, zone or district and why designation as a school, zone or district would enhance the ability of the school, zone or district to achieve its mission;

B. A description of the innovations the school, zone or district would implement, which may include, but are not limited to, innovations in school staffing, curriculum and assessment; school calendar; use of financial and other resources; and the recruitment, employment, evaluation and compensation of teachers, administrators and other staff employed by the school;

C. An identification of the improvements in academic performance that the school, zone or district expects to achieve in implementing the innovations;

D. A listing of the programs, policies and practices within the school, zone or district that would be affected by the innovations identified by the school, zone or district and the manner in which they would alter current programs, policies and practices. The programs, policies or practices may include, but are not limited to:

- (1) A description of any research-based educational program to be implemented;
- (2) The length of the school day and the school year;
- (3) The student promotion and graduation policies;
- (4) The assessment plan;
- (5) The budget; and
- (6) The staffing plan.

E. A description of any statutory requirements applicable to public schools or school administrative unit policy requirements that would need to be waived for the school, zone or district to implement the identified innovations;

F. An identification of the improvements in academic performance that the school, zone or district expects to achieve in implementing the innovations;

G. An identification of the strategic partnerships, including partnerships with business, industry, postsecondary education institutions, nonprofit educational organizations and other educational entities, that the school, zone or district expects to develop in implementing its identified innovation;

H. An estimate of the cost savings and increased efficiencies, if any, the school, zone or district expects to achieve in implementing the identified innovations;

I. A description of the strategies that the school, zone or district expects to implement in the future to secure and maintain the resources necessary to sustain the identified innovations;

J. A provision for the continuation and assignment of collective bargaining agreements as they apply to the school, zone or district for the duration of those agreements and the continuation of representational rights;

K. A provision for the continuation of continuing contract rights under section 13201; and

L. Any additional information required by the school board.

5. Additional information. An innovation plan, whether submitted by one or more public schools or created by a school board through collaboration with one or more public schools, must include the following information:

A. A description of how innovations in the schools in the zone or district would be integrated to achieve results that would be less likely to be accomplished by each school working alone; and

B. An estimate of any economies of scale that would be achieved by innovations implemented jointly by the schools within the zone or district.

6. Prohibited acts. An employee of a public school or school administrative unit may not be discriminated against by the school board, the superintendent or any other administrator of the school administrative unit or by any employee organization, officer of the organization or member of the organization for exercising or not exercising the rights provided for under this section. An employee of a school administrative unit or an officer or member of an employee organization may not impede, restrain or coerce an employee of a public school or school administrative unit to keep that employee from exercising the rights provided for under this section or cause an employer to impede, restrain or coerce an employee to keep that employee from exercising the rights provided for under this section.

A person may not directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against a public employee or a group of public employees in the free exercise of their rights pursuant to Title 26, chapter 9-A to voluntarily join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining or in the free exercise of any other right under Title 26.

7. Innovations. In considering or creating an innovation plan, each school board may consider innovations in the following areas:

A. Curriculum and academic standards and assessments;

B. Accountability measures, including, but not limited to, expanding the use of a variety of accountability measures to more accurately present a complete measure of student learning and accomplishment. The accountability measures adopted may include, but are not limited to:

- (1) Use of graduation or exit examinations;
- (2) Use of end-of-course examinations;
- (3) Use of formative assessments that measure student growth over time;
- (4) Use of multiple measures of student achievement;
- (5) Measuring the percentage of students continuing on to postsecondary education; and
- (6) Measuring the percentage of students simultaneously obtaining a high school diploma and an associate's degree or a career and technical education certificate from a postsecondary educational institution;

C. Provision of services, including, but not limited to, special education services; services for gifted and talented students; services for students with limited English proficiency; educational services for students at risk of academic failure, expulsion or dropping out; and support services provided by the Department of Health and Human Services or the Department of Corrections to a state ward or to a state agency client;

D. Teacher recruitment, training, preparation and professional development;

E. Teacher employment;

F. Performance expectations and evaluation procedures for teachers and principals;

G. Compensation for teachers, principals and other school personnel, including, but not limited to, performance pay plans, total compensation plans and innovations with regard to retirement and other benefits;

H. School governance and the roles, responsibilities and expectations of principals; and

I. Preparation and counseling of students for transition to postsecondary education or the workforce.

8. Gifts, grants and donations. A school, zone or district may seek and accept public and private

gifts, grants and donations to offset the costs of developing and implementing an innovation plan. Any gift, grant or donation received pursuant to this subsection must be approved by the school board prior to the receipt of the gift, grant or donation.

9. Commissioner's approval. A school board shall submit school, zone or district innovation plans approved pursuant to subsection 4, paragraph J to the commissioner.

A. Within 60 days after receiving an innovation plan for a school, zone or district, the commissioner shall approve the innovation plan unless the commissioner concludes that the plan:

- (1) Is likely to result in a decrease in academic achievement in the innovative school, zone or district; or
- (2) Is not fiscally feasible.

B. If the commissioner does not approve the innovation plan, the commissioner shall provide to the school board a written explanation of the basis for the decision. The school board may submit an amended innovation plan for the commissioner's approval at any time.

Nothing in this subsection may prevent or may be construed to prevent the commissioner from approving an innovation plan to create an innovative public school district when the innovation plan is created by a school board for a school administrative unit that operates only one innovative, autonomous public school.

10. Commissioner's waiver. Upon approval of an innovation plan for a school, zone or district, the commissioner shall waive requirements of any statutes or rules specified in the approved innovation plan as they pertain to the innovative school, zone or district, except that the commissioner may not waive requirements pertaining to:

A. School administrative unit employee participation in the Maine Public Employees Retirement System;

B. The standards established by the school board for awarding a high school diploma as set forth in chapter 207-A, subchapter 3;

C. The statewide assessment program established under this chapter to measure student achievement of the content standards in the system of learning results set forth in this chapter and in department rules implementing this chapter and other curricular requirements established by the school board;

D. The applicable federal statutes and regulations pertaining to student assessment as required by the federal No Child Left Behind Act of 2001, 20 United States Code, Chapter 70; and

E. The legal obligations and duties that a school administrative unit implementing an innovation plan owes to its employees prior to the formation of a district or zone, including but not limited to those obligations and duties arising under federal or state law, collective bargaining agreements and individual employment contracts, including but not limited to:

(1) Continued recognition of all bargaining agents that represent any bargaining units of employees who are employed by a school administrative unit implementing an innovation plan; and

(2) Assumption and continued observance of all collective bargaining agreements between such bargaining agents and a school administrative unit implementing an innovation plan.

Except as otherwise provided in this subsection, the commissioner may not waive any requirements of any law or rule specified in the approved innovation plan for an innovative school, zone or district if the law or rule relates to the implementation of or requirements for any program or grant for which the school administrative unit is receiving funds appropriated or allocated for the support of public school activities. The commissioner may waive any requirements of any law or rule that relates to the implementation of or requirements for any program or grant only if the funding for the program or grant is no longer allocated to the school administrative unit.

11. State subsidy. Designation as a school, zone or district may not affect the allocation of state subsidy for the school administrative unit as calculated pursuant to chapter 606-B.

12. Revisions to innovation plan; changes to waivers. If the school board, in collaboration with one or more public schools pursuant to subsection 3, revises an innovation plan as provided in subsection 9, paragraph B, the school board may request additional waivers or changes to existing waivers of the requirements of laws and rules as necessary to accommodate the revisions to the innovation plan, and the commissioner shall grant the request unless the commissioner concludes that the waivers or changes to existing waivers would be likely to result in a decrease in academic achievement in the school, zone or district, or would not be fiscally feasible.

A. In requesting a new waiver or a change to an existing waiver, the school board must demonstrate the consent of a majority of the teachers and a majority of the administrators employed at each school that is affected by the new or changed waiver.

B. Except as otherwise provided in this section, a waiver from the requirements of a law or rule that is granted pursuant to this section continues to ap-

ply to a school, zone or district as long as the school, zone or district continues to be designated as a school, zone or district.

13. Exemption from school district reorganization requirements. Notwithstanding chapter 103-A, a school administrative unit that has been approved by the commissioner as an innovative public school district is exempt from the requirements to reorganize as a regional school unit or as a member entity of an alternative organizational structure and may not be assessed a penalty as a nonconforming school administrative unit pursuant to section 15696.

14. Performance review. Three years after the commissioner approves an innovation plan for a school, zone or district, and every 3 years thereafter, the school board shall review the level of performance of the school, zone or district and determine whether the school, zone or district is achieving or making adequate progress toward achieving the academic performance results identified in the innovation plan of the school, zone or district. The school board, in collaboration with the school, zone or district, may revise the innovation plan as necessary to improve or continue to improve academic performance at the school, zone or district. Any revisions to the innovation plan require the consent of a majority of the teachers and a majority of the administrators employed at each affected school.

A. Following review of a school's performance, if the school board finds that the academic performance of students enrolled in the school is not improving at a sufficient rate, the school board may revoke the designation of the school as an innovative, autonomous public school.

B. Following review of the performance of a zone or district, if a school board finds that the academic performance of students enrolled in one or more of the schools included in the zone or district is not improving at a sufficient rate, the school board may remove the underperforming school or schools from the zone or district or may revoke the designation of the zone or district as an innovative public school zone or innovative public school district.

15. Annual report. By March 1, 2012, and each year thereafter, the commissioner shall submit to the Governor and to the joint standing committee of the Legislature having jurisdiction over education matters a report concerning the schools, zones and districts. At a minimum, the report must include:

A. The number of school administrative units designated as innovative districts in the preceding academic year and the total number of innovative districts in the State;

B. The number of innovative, autonomous public schools, and the number of innovative public

school zones and innovative public school districts, including the number of schools in each zone and district and the number of students served in the schools and zones, expressed as a total number and as a percentage of the students enrolled in the district;

C. An overview of the innovations implemented in each school, zone and district;

D. An overview of the academic performance of the students served in schools, zones and districts, including a comparison between the academic performance of the students before and after implementation of the innovations;

E. Any recommendations for legislative changes based on the innovations implemented or to further enhance the ability of school administrative units and school boards to implement innovations; and

F. Any information requested by the Governor or a member of the joint standing committee of the Legislature having jurisdiction over education matters.

The commissioner shall promptly post the annual report submitted pursuant to this section on the department's publicly accessible website.

Sec. 3. 26 MRSA §962, sub-§7, ¶A, as amended by PL 2005, c. 662, Pt. A, §43 and PL 2007, c. 58, §3, is further amended to read:

A. Any officer, board, commission, council, committee or other persons or body acting on behalf of:

- (1) Any municipality or any subdivision of a municipality;
- (2) Any school, water, sewer, fire or other district;
- (3) The Maine Turnpike Authority;
- (5) Any county or subdivision of a county;
- (6) The Maine Public Employees Retirement System; ~~or~~
- (7) The Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf; ~~or~~
- (8) Any innovative, autonomous public school, innovative public school district or innovative public school zone created and operated under Title 20-A, section 6212 or 6213;

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Fund for the Efficient Delivery of Educational Services Z005

Initiative: Provides a base allocation for grants to improve educational opportunities and student achievement through more efficient delivery of educational services.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

See title page for effective date.

CHAPTER 447

H.P. 1147 - L.D. 1562

An Act To Prohibit the Sale or Possession of So-called Bath Salts Containing Dangerous Synthetic Drugs

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

Whereas, certain synthetic hallucinogenic drugs marketed as bath salts are powerful stimulant drugs that are suspected to have been designed to avoid prosecution and are commonly available on the Internet; and

Whereas, there exists a perception that these so-called bath salts pose a safer alternative to other drugs that are illegal but use of these bath salts is known to produce a number of severe side effects, including organ failure, and death; and

Whereas, prohibiting the use and possession of these so-called bath salts is an urgent public safety matter; 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. 22 MRSA §§2390 to 2394 are enacted to read: