

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

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SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2012

CHAPTER 669
S.P. 439 - L.D. 1422

**An Act To Prepare Maine
People for the Future Economy**

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

Sec. 1. 20-A MRSA §253, sub-§9 is enacted to read:

9. Transition to standards-based educational system. In order to facilitate the transformation of the public education system to one in which standards are used to guide curriculum and instruction and in which student advancement and graduation are based on student demonstration of proficiency in meeting educational standards, the commissioner may waive or alter any provision of this Title as specified in an approved plan for transitioning to proficiency-based graduation in accordance with section 4722-A as the provision pertains to requiring or prohibiting an action based on the age or grade level of a student. This authority applies to all age-based or grade-based requirements, except that the commissioner may not waive or alter:

A. Requirements imposed by federal law, or imposed by state law in order to comply with federal law, including but not limited to requirements relating to assessment and special education;

B. Compulsory attendance and eligibility to enroll standards;

C. Provisions relating to public funding, including tuition rates;

D. Health-related provisions, if advised by health professionals not to alter the requirements; and

E. Provisions of this Title that are not administered by the commissioner, including but not limited to certain provisions relating to institutions of higher education.

The commissioner shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection before July 1, 2013 are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. Beginning July 1, 2013, rules adopted by the commissioner pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. 20-A MRSA §2902, sub-§3, as repealed and replaced by PL 1985, c. 797, §22, is amended to read:

3. Courses required by law. Provide instruction in elementary schools as specified in sections 4701, 4704, 4706 and 4711 and in secondary schools as specified in sections 4701, 4704, 4706, 4722, 4723 and 4724.

Sec. 3. 20-A MRSA §4502, sub-§1, as amended by PL 2001, c. 454, §12, is further amended to read:

1. General requirements. Elementary and secondary schools and school administrative units, including an educational program or school located in or operated by a juvenile correctional facility, shall meet all requirements of the system of learning results as established in section 6209 as well as other requirements of this Title and other statutory requirements applicable to the public schools and basic school approval standards. Each school administrative unit shall prepare and implement a comprehensive education plan that is aligned with the system of learning results, focused on the learning of all students and oriented to continuous improvement. The comprehensive education plan must include a plan for transitioning to proficiency-based graduation in accordance with section 4722-A. This plan must also address all other plans required by the department.

Sec. 4. 20-A MRSA §4502, sub-§6, as repealed and replaced by PL 2001, c. 454, §15, is amended to read:

6. Annual report on comprehensive education plan. The superintendent shall make an annual report of progress on the comprehensive education plan, developed pursuant to subsection 1, to the citizens of the school administrative unit. The school board shall annually review and approve the plan. The superintendent shall certify progress on the plan to the commissioner on an annual basis and shall submit to the commissioner a copy of the minutes of the school board meeting at which the school board reviewed and approved the plan.

Sec. 5. 20-A MRSA §4502, sub-§8, as enacted by PL 2001, c. 454, §16, is amended to read:

8. Waivers. The commissioner may grant a school administrative unit a waiver of one or more school approval requirements upon receipt of an application from the school administrative unit that includes the basis for the waiver request and a plan to reduce reliance on waivers in subsequent years. ~~Financial hardship is one criterion the commissioner must consider in determining whether to grant a waiver.~~

A. Financial hardship is one criterion the commissioner must consider in determining whether to grant a waiver.

B. A request to waive the requirement for a transition plan to proficiency-based graduation in accordance with section 4722-A by January 1, 2017 must include specific information about the reason for the waiver request and a date by which the proficiency-based graduation requirement will be met. Any waiver granted by the commissioner under this paragraph must require an annual report

to the commissioner on the school administrative unit's progress toward meeting the requirements of section 4722-A. This paragraph is repealed July 1, 2020.

C. The commissioner shall provide a report to the joint standing committee of the Legislature having jurisdiction over education matters by February 1st annually on the number of waivers provided pursuant to paragraph B, including the reasons for the waivers granted. The commissioner shall promptly post the annual report submitted pursuant to this paragraph on the department's publicly accessible website.

This paragraph is repealed July 1, 2020.

Sec. 6. 20-A MRSA §4722, sub-§§7 and 8 are enacted to read:

7. Applicability of requirements; transition to proficiency-based diploma. Except as provided in section 4722-A, this section applies to the granting of diplomas to secondary school students before January 1, 2017.

8. Repeal. This section is repealed July 1, 2020.

Sec. 7. 20-A MRSA §4722-A is enacted to read:

§4722-A. Proficiency-based diploma standards

Beginning January 1, 2017, a diploma indicating graduation from a secondary school must be based on student demonstration of proficiency as described in this section. The commissioner may permit a school administrative unit to award diplomas under this section prior to January 1, 2017 if the commissioner finds that the unit's plan for awarding diplomas meets the criteria for proficiency-based graduation under this section.

1. Requirements for award of diploma. In order to receive a diploma indicating graduation from secondary school, a student must:

A. Demonstrate that the student engaged in educational experiences relating to English language arts, mathematics and science and technology in each year of the student's secondary schooling;

B. Demonstrate proficiency in meeting state standards in all content areas of the system of learning results established under section 6209;

C. Demonstrate proficiency in each of the guiding principles set forth in department rules governing implementation of the system of learning results established pursuant to section 6209; and

D. Meet any other requirements specified by the governing body of the school administrative unit attended by the student.

2. Method of gaining and demonstrating proficiency. Students must be allowed to gain proficiency through multiple pathways, as described in section 4703, and must be allowed to demonstrate proficiency by presenting multiple types of evidence, including but not limited to teacher-designed or student-designed assessments, portfolios, performance, exhibitions and projects.

3. Exceptions. Notwithstanding subsection 1, a student may be awarded a diploma indicating graduation from a secondary school in the following circumstances.

A. A child with a disability, as defined in section 7001, subsection 1-B, who achieves proficiency as required in subsection 1, as specified by the goals and objectives of the child's individualized education plan, may be awarded a high school diploma.

B. A student who has satisfactorily completed the freshman year in an accredited degree-granting institution of higher education may be eligible to receive a high school diploma from the school the student last attended.

C. A student who experiences education disruption, as described in section 5001-A, subsection 4, paragraph F, who successfully demonstrates proficiency as required in subsection 1 as set forth in the student's school work recognition plan as defined in section 5161 must, with the approval of the commissioner, be awarded a Department of Education diploma as defined in section 5161.

D. A school administrative unit may award a high school diploma to a student who has met the standards set forth in a waiver request that was approved by the commissioner pursuant to section 4502, subsection 8.

E. A person may be awarded a high school diploma, including a posthumous award, if the person or a family member of the person applies to a secondary school and:

(1) The person:

(a) Attended a secondary school in the geographic area now served by the secondary school from which a diploma is requested; or

(b) Resides at the time of application for a diploma in the geographic area served by the secondary school from which a diploma is requested;

(2) The person did not graduate or receive a diploma from a secondary school because the person left secondary school to serve in the Armed Forces and served during the following periods:

(a) World War II, from December 7, 1941 to August 16, 1945;

(b) The Korean Conflict; or

(c) The Vietnam War era, from February 28, 1961 to May 7, 1975; and

(3) The person received an honorable discharge or a certificate of honorable service from the Armed Forces.

For the purposes of this paragraph, "Armed Forces" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard and the Merchant Marines.

4. Grants; contingent extension of full implementation. During the period of transition to proficiency-based graduation in accordance with this section, the department, if funds are available, shall make annual transition grants to each school administrative unit equal to 1/10 of 1% of the school administrative unit's total cost of education calculated under section 15688, subsection 1 to be used in the manner determined by the school administrative unit to fund the costs of the transition not otherwise subsidized by the State. The date for implementation of the awarding of diplomas based on student demonstration of proficiency as described in this section is extended one year for each year for which transition grants are not made available to a school administrative unit or for which levels of general purpose aid for local schools fall below school year 2012-2013 levels.

Sec. 8. 20-A MRSA §13016, sub-§2, as amended by PL 1991, c. 622, Pt. X, §8, is further amended to read:

2. Professional teacher certificates. A professional teacher certificate may be renewed for 5-year periods in accordance with state board rules, which must require, at a minimum, that the teacher complete at least 6 hours of professional or academic study, or in-service training designed to improve the performance of the teacher in the field for which the teacher holds an endorsement, or in a related subject area, or to improve the teacher's knowledge of, and skill in, standards-based education. Teachers who desire to qualify for a master teacher certificate must coordinate their continuing professional education with the requirements of an applicable teacher action plan.

Sec. 9. Development of standards-based system tools. The Department of Education shall coordinate the development of standards, assessments and assessment criteria needed to enable school administrative units to implement a standards-based system of education.

1. The Department of Education shall convene a working group to develop standards, assessments and assessment criteria for determining student proficiency in the guiding principles as outlined in department rule

that are required for secondary school graduation beginning January 1, 2017. The working group must include representatives from school administrative units currently developing those standards, assessments and assessment criteria. The working group shall develop draft standards, assessments and assessment criteria for review not later than July 1, 2013.

2. The Department of Education shall maintain a publicly accessible website to serve as a resource for schools implementing standards-based education systems. The website must:

A. Include information about the experience of school administrative units that are engaged in transforming their schools to standards-based systems, including schools involved in the Maine Cohort for Customized Learning and the League of Innovative Schools of the New England Secondary School Consortium;

B. Include a repository of model materials, including but not limited to report cards and transcripts, assessment methodologies and assessment criteria for all content areas of the system of learning results;

C. Be designed to facilitate communication among educators and administrators on the transformation of schools to standards-based education systems; and

D. Provide information for school administrative units seeking to create regional capacity to implement standards-based education systems, including information about applying for a grant from the Fund for the Efficient Delivery of Educational Services established pursuant to the Maine Revised Statutes, Title 20-A, section 2651 and information about school administrative units that are currently engaging in regional cooperation in delivering education.

Sec. 10. Development of technical assistance plan. The Department of Education shall develop a technical assistance plan that includes a timeline with implementation dates for the resources and initiatives the department will provide to enable school administrative units to transition to a standards-based education system. The technical assistance plan must include but is not limited to the standards-based system tools described in section 9, other resources related to model policies and best practices, professional development and training and other initiatives that the department determines will be necessary for school administrative units to transform their schools to a standards-based education system. The technical assistance plan must be presented to the joint standing committee of the Legislature having jurisdiction over education matters for review by March 1, 2013. The joint standing committee may introduce a bill to the First Regular Session of the 126th Legislature related

to the department's activities described in this section and section 9.

Sec. 11. Amendment of age-based and grade-based statutory provisions. The Department of Education shall submit a bill to the First Regular Session of the 126th Legislature to amend provisions of the Maine Revised Statutes, Title 20-A that unreasonably restrict the ability of school administrative units to advance or graduate students based on demonstrated proficiency in education standards. The bill may include an amendment to the rule-making provisions under Title 20-A, section 253, subsection 9.

See title page for effective date.

CHAPTER 670

H.P. 1219 - L.D. 1610

An Act To Amend the Law Regarding the Sale of Wood Pellets and Wood

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

Whereas, this legislation increases the amount of wood pellets presumed to meet the requirement of residential use and thus to qualify for a sales tax exemption; and

Whereas, this legislation clarifies the amount of wood presumed to meet the requirement of residential use and thus to qualify for a sales tax exemption; and

Whereas, this legislation needs to be in effect for this spring season to allow citizens of the State to benefit from the exemptions; 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. 36 MRSA §1760, sub-§9, as amended by PL 2009, c. 625, §7, is further amended to read:

9. Coal, oil and wood. Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of 5 gallons or less is presumed to meet the requirements of this subsection. A Until September 30, 2013,

a purchase of ~~200~~ 1,000 pounds or less of wood pellets or of any 100% compressed wood product intended for use in a wood stove or fireplace is presumed to meet the requirements of this subsection. Beginning October 1, 2013, a purchase of any amount of wood pellets is presumed to meet the requirements of this subsection. A purchase of less than one cord of wood is presumed to meet the requirements of this subsection. For purposes of this subsection, "cord" has the same meaning as in Title 10, section 2302, subsection 1.

Sec. 2. Suppliers of wood pellets. The Maine State Housing Authority shall amend its rules governing the awarding of contracts to suppliers of wood pellets for purposes of carrying out its duties to receive, distribute and administer federal funds on behalf of the State for fuel assistance pursuant to the federal Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services to give preference, all other factors being substantially equal, to a supplier of wood pellets that is incorporated under the laws of, and has its principal place of business within, a state in the United States of America.

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

Effective May 21, 2012.

CHAPTER 671

S.P. 566 - L.D. 1667

An Act To Clarify Authorization for a Court Facilities Bond

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

Sec. 1. PL 2009, c. 213, Pt. WWWW, §2 is amended to read:

Sec. WWWW-2. Issuance of securities; Maine Governmental Facilities Authority. Pursuant to the Maine Revised Statutes, Title 4, section 1606, subsections 1 and 2, the Maine Governmental Facilities Authority is authorized to issue securities in its own name in an amount up to \$67,500,000 for the purpose of paying the costs associated with the construction of a new courthouse in Augusta, the renovation of a courthouse in Dover-Foxcroft and planning for and construction of court facilities upgrades in Machias and, if there are remaining funds, planning for other court facilities.

See title page for effective date.