

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

**CHAPTER 35
H.P. 420 - L.D. 537**

**Resolve, To Design and
Implement a Demonstration
Project on Recertification of
Certified Nursing Assistants**

Sec. 1. Demonstration project on recertification of certified nursing assistants. Resolved: That the offices within the Department of Health and Human Services concerning elder services and licensing and regulatory services shall work together with licensed home health agencies and nursing facilities to design and implement a demonstration project on certified nursing assistant qualification for continued listing on the Maine Registry of Certified Nursing Assistants beginning January 1, 2012. The demonstration project must provide a mechanism by which a person who is working as an unlicensed assistive person, as defined in the Maine Revised Statutes, Title 22, section 1812-G, subsection 1-A, paragraph C, may work or serve as a trainee in a licensed home health agency or nursing facility under required supervision in order to qualify for certification on the Maine Registry of Certified Nursing Assistants. The department shall report on the results of the demonstration project to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 2014.

See title page for effective date.

**CHAPTER 36
H.P. 338 - L.D. 445**

**Resolve, Directing the
Department of Inland Fisheries
and Wildlife To Study Scents
Used in Hunting Deer and
Renderings Used in Deer Feed**

Sec. 1. Department of Inland Fisheries and Wildlife to conduct study. Resolved: That the Department of Inland Fisheries and Wildlife shall study the sale of deer scent lures containing cervid urine and the sale of deer feed containing animal renderings and the implications that the sale and use of these products have for the spread of chronic wasting disease. The department shall report its findings, including any suggested legislation, to the Joint Standing Committee on Inland Fisheries and Wildlife no later than December 7, 2011. The Joint Standing Committee on Inland Fisheries and Wildlife may report out

legislation on the subject matter of the report to the Second Regular Session of the 125th Legislature.

See title page for effective date.

**CHAPTER 37
H.P. 910 - L.D. 1219**

**Resolve, To Require the
Department of Transportation
To Designate the Park
Street Bridge in the Town of
Presque Isle the Gold Star
Memorial Bridge**

Sec. 1. Department of Transportation to designate bridge in the Town of Presque Isle. Resolved: That the Department of Transportation shall designate the bridge on Park Street in the Town of Presque Isle that crosses Presque Isle Stream the Gold Star Memorial Bridge in honor of those members of the Armed Forces of the United States who lost their lives in the performance of their duties.

See title page for effective date.

**CHAPTER 38
H.P. 882 - L.D. 1191**

**Resolve, To Encourage
Business Development by
Creating Limits on the Time
Certain Utilities May Hold a
Business Customer's Deposit**

Sec. 1. Rules on business customers' deposits. Resolved: That the Public Utilities Commission shall amend its rule, Chapter 815: Consumer Protection Standards For Electric And Gas Transmission And Distribution Utilities, to require that deposits paid by small businesses with impeccable bill-paying histories be returned to those businesses after a reasonable time period. The commission may consider establishing different rules for different-sized utilities to account for differences in the risk to other ratepayers associated with defaults by businesses. The commission may consider basing eligibility for return of a deposit on the size of the deposit that was required of the business, such as a business whose deposit was less than \$10,000. The commission shall establish a reasonable time period, such as 5 years, before a business is eligible for a return of the deposit. Rules adopted pursuant to this section are major substantive rules pursuant to the Maine Revised Statutes, Title 5,

chapter 375, subchapter 2-A and must be provisionally adopted by January 15, 2012.

See title page for effective date.

CHAPTER 39
H.P. 88 - L.D. 106

**Resolve, Regarding Legislative
Review of Portions of Chapter
101: Maine Unified Special
Education Regulation Birth to
Age Twenty, 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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, 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 following changes are made:

1. The rule must be amended in Section II to clarify that the definition of "adverse effect/adversely affects" means to have a negative impact that is more than a minor or transient hindrance;

2. The rule must be amended in Section VI in the part concerning an abbreviated school day to require that the Individualized Education Program Team must convene every 20 school days if a child with a disability does not return to a full-time school day within 45 calendar days after the Individualized Education Pro-

gram Team initially determined that an abbreviated school day is appropriate and necessary for the child;

3. The rule must be amended in Section VII in the part concerning multiple disabilities by deleting the procedural step that requires the Individualized Education Program Team to make a determination that the concomitant disabilities adversely affect the child's educational performance;

4. The rule must be amended in Section VII in the part concerning the procedure for determination of adverse effect on educational performance by deleting "specific learning disability" from the list of disability eligibility categories that require this procedural step;

5. The rule must be amended in Section VIII to correct a cross-reference to the definition of "3-5 (Three to under age 6)," which has been renumbered as part 39, and the table of contents for the rule must also be amended to correct the inadvertent deletion of this part of the definition section; and

6. The rule must be amended in Section X in the part concerning tutorial instruction by deleting the provision that specifies that the Individualized Education Program Team determines who will provide the tutorial instruction to a child with a disability.

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

Effective May 19, 2011.

CHAPTER 40
H.P. 287 - L.D. 361

**Resolve, To Evaluate the
Energy Use of the State House
and the Burton M. Cross State
Office Building**

Sec. 1. Funds for energy efficiency. Resolved: That the Efficiency Maine Trust established in the Maine Revised Statutes, Title 35-A, section 10103 shall devote \$200,000 for the completion of an energy audit and the implementation of cost-effective energy efficiency measures in accordance with this resolve. To the extent possible, the funds must come from funding sources that permit the use of the funds to reduce consumption of fossil fuels as well as electricity consumption; and be it further

Sec. 2. Energy audit of State House and Burton M. Cross State Office Building. Resolved: That the Efficiency Maine Trust shall conduct or contract for the energy audit under section 1 of the State House and the Burton M. Cross State Office Building. The Efficiency Maine Trust shall collaborate with the chair of the State House and Capitol Park