

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 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