

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

ward the sale or transfer of property pursuant to Resolve 2009, chapter 102 by February 1, 2012 to the Joint Standing Committee on State and Local Government.

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

Effective June 22, 2011.

CHAPTER 100

H.P. 1174 - L.D. 1586

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a Major Substantive Rule of the Department of Health and Human Services

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, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a provisionally adopted major substantive rule of the Department of Health and Human Services 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. That portion of the rule concerning psychotropic medications is amended to correct references to

persons who receive in-home psychotropic medications; and

2. That portion of the rule concerning face-to-face encounters between a member and the member's physician is amended to require documentation of the face-to-face encounter only at the start of care.

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

Effective June 22, 2011.

CHAPTER 101

H.P. 1058 - L.D. 1444

Resolve, To Enhance Agriculture and Farming

Sec. 1. Department of Environmental Protection to review restrictions on bringing land into agricultural production. Resolved: That the Department of Environmental Protection, referred to in this resolve as "the department," shall review provisions in the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, articles 2-B and 5-A and rules authorized under those articles that affect a person's ability to clear or till land for agriculture. For the purposes of this resolve, "agriculture" means the production, keeping or maintenance for sale or lease of plants or animals, including but not limited to: forage and sod crops; grain and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products.

The department, in consultation with the Department of Agriculture, Food and Rural Resources, shall solicit input from farmers and representatives of agricultural associations when reviewing its rules. The department shall examine the setbacks in which tilling of soil is prohibited and consider options to allow land formerly used for forage crops and pasture to return to those uses; and be it further

Sec. 2. Report to the Joint Standing Committee on Agriculture, Conservation and Forestry. Resolved: That the department shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 15, 2013 on its findings upon completion of the review under section 1 and recommendations for actions to increase land available for agricultural uses in an environmentally responsible manner; and be it further

Sec. 3. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Land and Water Quality 0248

Initiative: Appropriates funds on a one-time basis for the Department of Environmental Protection to review statutes and rules including setbacks and forage and pasture regulations that restrict use of lands for agricultural purposes, to consult with the Department of Agriculture, Food and Rural Resources, to solicit data from farmers and agricultural associations and to report findings and recommendations to the Legislature no later than January 15, 2013.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$3,000
GENERAL FUND TOTAL	\$0	\$3,000

; and be it further

Sec. 4. Effective date. Resolved: That this resolve takes effect July 1, 2012.

Effective July 1, 2012.

CHAPTER 102

H.P. 486 - L.D. 656

Resolve, To Establish a Task Force on Franco-Americans

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 Task Force on Franco-Americans is established to find ways to promote and preserve the Franco-American heritage that is shared by a great number of Maine citizens; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report prepared in time for submission to the next legislative session; 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. Task force established. Resolved: That, notwithstanding Joint Rule 353, the Task Force on Franco-Americans, referred to in this resolve as "the task force," is established; and be it further

Sec. 2. Task force membership. Resolved: That the task force consists of 13 members appointed as follows:

1. Four members of the public appointed by the Governor;

2. Four members appointed by the President of the Senate as follows:

A. One Senator; and

B. Three members of the public; and

3. Five members appointed by the Speaker of the House as follows:

A. Two members of the House of Representatives; and

B. Three members of the public; and be it further

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the task force; and be it further

Sec. 4. Appointments; convening of task force. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the task force. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business; and be it further

Sec. 5. Duties. Resolved: That the task force, upon determining a definition for who is a Franco-American, shall gather basic data about Franco-Americans, including, but not limited to, how many Franco-Americans reside in the State, the percentage of the State's population that is Franco-American, if they speak French, their educational achievement, their annual income and where they live, and shall find ways to promote and preserve the Franco-American heritage that is shared by a great number of Maine citizens. The Franco-American Center at the University of Maine shall work in conjunction with the task force in fulfilling the duties of the task force. The task force may also work with individuals or nonprofit or charitable organizations toward the completion of its duties and responsibilities; and be it further

Sec. 6. Staff assistance. Resolved: That, notwithstanding Joint Rule 353, the Legislative Council shall provide necessary staffing services to the task force; and be it further

Sec. 7. Report. Resolved: That, no later than December 7, 2011, the task force shall provide a pre-