

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

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

After reviewing the recommendations and reports, the council shall identify those proposals it determines offer the most potential for positively transforming economic conditions in the State, extract from those proposals concrete proposals for legislative action and translate them into proposed legislation; and be it further

Sec. 2. Staff assistance. Resolved: That the council shall contract with the Maine Development Foundation for primary staff support to carry out the purposes of this resolve; and be it further

Sec. 3. Outside funding. Resolved: That the council shall seek outside funding to fund the costs of developing the plan. The council may not accept contributions from any party having a pecuniary or other vested interest in the outcome of the plan. To the extent that outside contributions are inadequate to fully fund all costs of developing the plan, the council is not required to develop the plan; and be it further

Sec. 4. Report. Resolved: That the council shall submit the plan, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters no later than December 5, 2012. The joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters is authorized to report out a bill to implement the recommendations to the First Regular Session of the 126th Legislature.

See title page for effective date.

CHAPTER 149

S.P. 641 - L.D. 1846

**Resolve, Directing the
Department of Environmental
Protection To Adopt Rules
Pertaining to Petroleum
Storage and Gravel Pits**

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

Whereas, rules of the Department of Environmental Protection do not allow aboveground oil storage tanks in significant sand and gravel aquifers; and

Whereas, a majority of gravel pits in the State are located in significant sand and gravel aquifers and therefore gravel pit operators are not permitted to fuel heavy equipment on site without undertaking an onerous and complicated process or using temporary fueling trucks, which are less protective of the environment; and

Whereas, immediate enactment of this legislation will facilitate quick adoption of an amended department 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. Department of Environmental Protection; adopt emergency rule; aboveground oil storage tanks. Resolved: That, notwithstanding Public Law 2007, chapter 569, section 7, the Commissioner of Environmental Protection shall adopt an emergency rule pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2 to allow aboveground oil storage tanks that are used for the supply of diesel fuel to be located in excavations for borrow, clay, topsoil or silt and quarries that are in significant sand and gravel aquifers. An emergency rule adopted pursuant to this section is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A. Following adoption of the emergency rule, the commissioner shall complete nonemergency routine technical rulemaking to allow aboveground oil storage tanks that are used for the supply of diesel fuel to be located in excavations for borrow, clay, topsoil or silt and quarries that are in significant sand and gravel aquifers. Subsequent amendments to the rule are major substantive rules and must be adopted by the Board of Environmental Protection in accordance with Title 38, section 341-H.

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

Effective April 6, 2012.

CHAPTER 150

H.P. 1396 - L.D. 1893

**Resolve, Regarding Legislative
Review of Portions of
Chapter 850: Health Plan
Accountability, a Major
Substantive Rule of the
Department of Professional
and Financial Regulation**

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 au-

thorization 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 850: Health Plan Accountability, a provisionally adopted major substantive rule of the Department of Professional and Financial Regulation 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 provision related to access to behavioral health care practitioners is amended to require the reasonable availability of those practitioners within a carrier's delivery system.

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

Effective April 6, 2012.

CHAPTER 151

H.P. 1341 - L.D. 1819

Resolve, Regarding Legislative Review of Chapter 26: Producer Margins, a Major Substantive Rule of the Maine Milk Commission

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 Chapter 26: Producer Margins, a provisionally adopted major substantive rule of the Maine Milk Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is not authorized.

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

Effective April 9, 2012.

CHAPTER 152

S.P. 674 - L.D. 1898

Resolve, Authorizing the Lease of the Guy P. Gannett House in Augusta to a Nonprofit Organization for Use as a Museum

Sec. 1. Definitions. Resolved: That, as used in this resolve, the following terms have the following meanings.

1. "Commissioner" means the Commissioner of Administrative and Financial Services.

2. "State property" means the real estate described in section 3 of this resolve with the buildings and improvements, together with all appurtenant rights and easements, and all personal property located on that property, including vehicles, machinery, equipment and supplies; and be it further

Sec. 2. Authority to lease state property. Resolved: That the State, by and through the commissioner, may:

1. Enter into a lease or leases of the interests of the State in the state property; and

2. Establish any rent and lease terms; and be it further

Sec. 3. Property interests that may be leased. Resolved: That the state property authorized to be leased is the following:

Real estate located at 184 State Street in the City of Augusta, Maine and known as the Guy P. Gannett House; and be it further