

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 29, 2013**

**SECOND REGULAR SESSION**  
**January 8, 2014 to May 2, 2014**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**EMERGENCY LAW IS**  
**SEPTEMBER 6, 2013**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 1, 2014**

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

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**Augusta, Maine**  
**2014**

3. The rule must be amended in section 12 in the part concerning the requirement that school administrative units must collaborate with educators and other education stakeholders in developing a performance evaluation and professional growth system by:

A. Inserting a provision to clarify that a majority of the members of the initial group of stakeholders must be composed of at least a majority of teachers and to provide that, of the teachers appointed to the initial group of stakeholders, 2/3 must have the endorsement of the majority of teachers in the school administrative unit and 2/3 must have the endorsement of the majority of the school administrative unit's governing body;

B. Inserting a provision to provide that, for a school administrative unit that has established an initial group of stakeholders to develop the school administrative unit's performance evaluation and professional development system prior to the effective date of this rule chapter, the existing group of stakeholders, with the consent of a majority of teachers in the school administrative unit, may continue as currently constituted even if the group of stakeholders does not meet the specific composition established in accordance with the provision amended by paragraph A;

C. Inserting a provision to provide that the initial group of stakeholders must use a consensus decision-making process to develop the performance evaluation and professional growth system, including the proportionate weight of the student learning and growth measures as set forth in section 7;

D. Inserting a provision to provide that if the stakeholder group fails to reach consensus on the issue of the proportionate weight of the student learning and growth measures by June 1, 2015, the proportionate weight of student learning and growth measures in that school administrative unit must be 20% in a system that uses a numerical approach to combining measures into a summative effectiveness rating, or, in a system that uses a matrix approach to combining measures into a summative effectiveness rating, student learning and growth measures must appear on a single axis of the matrix and that axis must be divided into not more than 5 segments; and

E. Inserting provisions to provide that if the stakeholder group fails to reach consensus on any issue in addition to the proportionate weight of the student growth measures by June 1, 2015, the school administrative unit shall adopt one of the State Model PE/PG systems developed pursuant to section 16 of the rule. Upon request by the entire membership of the stakeholder group, the commissioner may provide additional time to the group to reach consensus. Upon the expiration of

that additional time, the school administrative unit shall adopt one of the State Model PE/PG systems developed pursuant to section 16 of the rule.

4. The rule must be amended in section 15 in the part concerning requirements related to the piloting of performance evaluation and professional growth systems by:

A. Deleting the provision that provides that, in each case, all of the proposed student growth measures identified as concerns by local educators in a school administrative unit must be applied on a pilot basis; and

B. Inserting a provision that encourages school administrative units to utilize student growth measures during the pilot period.

5. The rule must be amended in section 16 in the part concerning technical assistance provided by the Department of Education to school administrative units by deleting the provision related to developing valid and reliable student learning and growth measures as part of that technical assistance.

6. The rule must be amended in section 16 by adding a reference to the State Model PE/PG systems and by inserting a provision requiring the Department of Education to develop at least one complete State Model PE/PG system for teachers and at least one complete State Model PE/PG system for principals; and be it further

**Sec. 2. Development of model PE/PG systems. Resolved:** That, by July 3, 2014, the Department of Education shall develop at least one complete State Model PE/PG system for teachers and at least one complete State Model PE/PG system for principals in accordance with section 16 of the rules adopted pursuant to this resolve.

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

Effective May 1, 2014.

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**CHAPTER 114**

**H.P. 1335 - L.D. 1850**

**Resolve, To Establish the Commission To Strengthen the Adequacy and Equity of Certain Cost Components of the School Funding Formula**

**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 needs to take effect before the expiration of the 90-day period in order to allow the commission established in this resolve sufficient time to complete its work; 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. Commission established. Resolved:** That, notwithstanding Joint Rule 353, the Commission To Strengthen the Adequacy and Equity of Certain Cost Components of the School Funding Formula, referred to in this resolve as "the commission," is established; and be it further

**Sec. 2. Commission membership. Resolved:** That the commission consists of 14 members as follows:

**1. Appointments by Senate President.** Two members of the Senate, who serve on the Joint Standing Committee on Education and Cultural Affairs, appointed by the President of the Senate, including one member of the party holding the largest and one member of the party holding the 2nd largest number of seats in the Legislature;

**2. Appointments by Speaker of the House.** Three members of the House of Representatives, who serve on the Joint Standing Committee on Education and Cultural Affairs, appointed by the Speaker of the House, including 2 members of the party holding the largest and one member of the party holding the 2nd largest number of seats in the Legislature;

**3. Commissioner of Education.** The Commissioner of Education or the commissioner's designee;

**4. State Board of Education.** The Chair of the State Board of Education or the chair's designee; and

**5. Public members.** Seven members with extensive knowledge of public education and school finance policies in the State, including:

A. One person representing the Maine Education Association, appointed by the President of the Senate;

B. One person representing the Maine Principals' Association, appointed by the Speaker of the House;

C. One person representing the Maine School Boards Association, appointed by the President of the Senate;

D. One person representing the Maine School Superintendents Association, appointed by the Speaker of the House;

E. One person representing the Maine Administrators of Services for Children with Disabilities, appointed by the President of the Senate;

F. One person representing the Maine Association of School Business Officials, appointed by the Speaker of the House; and

G. One person representing Educare Central Maine, appointed by the Speaker of the House; 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 commission; and be it further

**Sec. 4. Appointments; convening of commission. 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. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission, which must be no later than 30 days following the appointment of all members; and be it further

**Sec. 5. Duties. Resolved:** That the commission shall examine the reports and related work products presented to the Joint Standing Committee on Education and Cultural Affairs during the 126th Legislature as part of the independent review of the Essential Programs and Services Funding Act conducted pursuant to Resolve 2011, chapter 166 and shall develop a plan to strengthen the adequacy and equity of the following cost components included in the Essential Programs and Services Funding Act and other related education statutes.

**1. Public preschool programs for children 4 years of age.** As part of the review and analysis of public preschool programs for children 4 years of age, the commission shall:

A. Review the work products and any proposed rules developed by the Department of Education's work group to implement quality standards of practice for Maine public preschool programs, including an analysis of the standards proposed to address quality and consistency of public preschool programs and collaboration with other early childhood and preschool programs;

B. Conduct an analysis of the targeted funds for public preschool to grade 2 students that are allocated specifically for preschool students and conduct an analysis of the projected costs for providing public preschool programs for all eligible children 4 years of age in the State;

C. Review the current method for calculating the number of public preschool students enrolled in a school administrative unit's public preschool pro-

gram and conduct an analysis of the projected costs for changing the current method for calculating the number of public preschool students that counts each public preschool student as a 0.5 full-time equivalent student for the first year and a 1.0 full-time equivalent student beginning in the 2nd year to a new method that counts each public preschool student as a 1.0 full-time equivalent student for the first year and subsequent years; and

D. Collect and review information on the physical space and facility capacity of school administrative units and project the school facility costs necessary to implement public preschool programs for eligible children 4 years of age in the State.

**2. Support for economically disadvantaged students; Title I funds.** As part of the review and analysis of the cost components related to strengthening support for economically disadvantaged students, including the provision of funding under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq., referred to in this resolve as "Title I," and resources to provide extra help for struggling students, such as extended school days and summer school programs, the commission shall:

A. Collect school administrative unit spending data on the number of Title I teachers and education technicians in order to update the staffing ratios in the essential programs and services funding formula;

B. Conduct an analysis of the updated data collected on student-teacher and student-education technician staffing ratios in the essential programs and services funding formula in order to separate the groups of teachers into the following categories: classroom teachers, Title I teachers and teacher leaders or instructional coaches;

C. Develop a plan for adjusting the costs of the essential programs and services funding formula to account for the separate costs of classroom teachers, Title I teachers, education technicians and teacher leaders or instructional coaches;

D. Conduct research and analysis of the structures, programs, costs and achievement impacts of evidence-based practices in other states related to extended school day and summer school programs and also analyze examples of extended school day and summer school programs provided by school administrative units in the State;

E. Develop 2 or more models for funding and evaluating extended school day and summer school programs for inclusion in the essential programs and services funding formula; and

F. Project the financial impact of the adjustments under this subsection to the essential programs and services funding formula.

**3. Professional development and collaborative time needed to implement proficiency-based learning.** As part of the research and analysis of the cost components related to strengthening support for professional development, collaborative time to implement proficiency-based learning and spending data on teacher leaders or instructional coaches, including the following aspects of the cost components, the commission shall:

A. Collect school administrative unit spending data on professional development programs and collaborative time for teachers, as well as the school administrative unit spending data on teacher leaders or instructional coaches in order to update the staffing ratios in the essential programs and services funding formula;

B. Establish a dedicated funding mechanism and process, such as a supplemental professional development block grant program, that allows the Department of Education to provide funding to school administrative units that submit proposals to secure professional development funds;

C. Create a standards-based inventory of effective professional development programs and strategies from which school administrative units may select programs and strategies in order to receive supplemental professional development block grant funds; and

D. Develop an implementation plan for increasing the allocation of funds for professional development, collaborative time for teachers and teacher leaders or instructional coaches and include provisions in the implementation plan to monitor the use of these funds by school administrative units.

**4. Regional cost adjustment for teacher salaries.** As part of the research and analysis of the cost components related to the regional cost adjustment for teacher salaries, the commission shall:

A. Collect and update school administrative unit data included in the regional adjustment for teacher salaries pursuant to the Maine Revised Statutes, Title 20-A, section 15682;

B. Recalculate the regional adjustments using the most recent teacher salary data available and conduct analyses using the 35 labor market areas currently included in the essential programs and services funding formula and using the 31 labor market areas developed by the Department of Labor; and

C. Conduct research and analysis of the strategies used in other states to address teacher salary gaps in school districts.

**5. Debt service for locally approved school construction projects in the required local share of school funding.** As part of the research and analysis of the cost components related to debt service for locally approved school construction projects in the required state and local shares of school funding under the Essential Programs and Services Funding Act, the commission shall:

A. Review the statutory provisions under the Maine Revised Statutes, Title 20-A, section 15672, subsection 2-A related to determination of debt service costs that are included and excluded from the school construction projects that are recognized in the required state and local shares of school funding;

B. Review school administrative unit data related to energy and other costs related to minor capital costs, defined in the Maine Revised Statutes, Title 20-A, section 15672, subsection 20-A; and

C. Review the statutory provisions under the Maine Revised Statutes, Title 30-A, section 6006-F related to the School Revolving Renovation Fund.

**6. Special education allocation for minimum subsidy receivers.** The commission shall review the statutory provisions under the Maine Revised Statutes, Title 20-A, section 15689, subsections 1, 1-B and 11 that reduce the special education allocations for minimum subsidy receivers from 100% to 30% of special education costs, and the commission shall develop one or more models to align the special education allocations for minimum subsidy receivers with the progress of state funding levels necessary to progress towards meeting the statutory obligation to fund 55% of the total cost of education statewide.

**7. State contributions to fund the cost of the unfunded actuarial liability for retired teachers.** The commission shall review the statutory provisions under the Maine Revised Statutes, Title 20-A, section 15671, subsection 7, paragraph C that recognize the state contributions to fund the cost of the unfunded actuarial liability for retired teachers, and the commission shall make recommendations on whether the calculation of the state share percentage of the total cost of funding public education from kindergarten to grade 12 as required by the Essential Programs and Services Funding Act should continue to include the state contributions to fund the cost of the unfunded actuarial liability for retired teachers; and be it further

**Sec. 6. Commission meetings authorized. Resolved:** That the commission shall hold no more than 6 meetings to carry out its duties under this resolve.

1. During the first meeting of the commission, which must be convened no later than July 31, 2014, the commission shall review the duties established in section 5 with the Department of Education and the Education Research Institute staff assigned to staff the commission pursuant to section 9. The commission shall develop a work plan and timeline for the review of the required duties and related deliverables that the Department of Education and the Education Research Institute staff must prepare and present to the commission in accordance with the meetings scheduled in accordance with this section.

2. During a commission meeting scheduled during the month of October 2014, the commission shall review a progress report submitted by the Department of Education and the Education Research Institute staff of the required duties and related deliverables that were included in the work plan developed by the commission.

3. The commission shall schedule up to 4 meetings during the month of November 2014 and no later than December 9, 2014. During these meetings, the commission shall review the preliminary findings and recommendations prepared and submitted by the Department of Education and the Education Research Institute staff regarding the required duties and related deliverables that were included in the work plan developed by the commission. The Department of Education and the Education Research Institute shall submit their preliminary findings and recommendations to the commission no later than November 1, 2014; and be it further

**Sec. 7. Contract to review essential programs and services components. Resolved:** That, for fiscal year 2014-15, the Commissioner of Education shall contract with a statewide education research institute to review the cost components of the Essential Programs and Services Funding Act and related education statutes pursuant to section 5 of this resolve. The contract must be funded with funding allocated for the purposes of Title 20-A, section 15689-A, subsection 3. The commissioner may not contract with a statewide education research institute to review certain cost components of the Essential Programs and Services Funding Act in accordance with the schedule established in Title 20-A, section 15686-A; and be it further

**Sec. 8. Contract for Education Research Institute. Resolved:** That, if funds are required in addition to the funds provided pursuant to section 7 of this resolve for the compilation and analysis of education data necessary to fulfill the duties established pursuant to section 5 of this resolve, notwithstanding the Maine Revised Statutes, Title 20-A, section 15689-A, subsection 6, for fiscal year 2014-15, the Commissioner of Education and the Legislature may contract with the Education Research Institute in accordance

with Title 20-A, section 10 and use funds otherwise provided for a contract pursuant to Title 20-A, section 15689-A, subsection 6. The contract authorized in accordance with Title 20-A, section 15689-A, subsection 6 for fiscal year 2014-15 may not exceed the balance of funds remaining after funds are allocated for this purpose; and be it further

**Sec. 9. Staffing assistance; information.**

**Resolved:** That the Department of Education and the Education Research Institute established pursuant to the Maine Revised Statutes, Title 20-A, section 10 shall provide staffing assistance to the commission. The Department of Education and the Education Research Institute shall provide the commission with access to previous reports on school funding in the State and access to database information necessary to carry out the duties pursuant to section 5 of this resolve. The Office of Policy and Legal Analysis shall provide drafting assistance to the commission; and be it further

**Sec. 10. Report; recommendations. Re-**

**solved:** That the Department of Education and the Education Research Institute staff assigned to provide staffing assistance to the commission pursuant to section 9 shall present a preliminary report, including the results of the review conducted pursuant to section 5 and the related deliverables included in the work plan established by the commission under section 6, to the commission no later than November 1, 2014. The Department of Education and the Education Research Institute staff assigned to provide staffing assistance to the commission shall work with the commission to prepare a final report, including findings and recommendations related to the results of the review required by this resolve, for submission to the Legislature. The commission shall submit a report containing its findings and recommendations pursuant to sections 5 and 6 of this resolve, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by December 9, 2014. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs may submit a bill related to this report to the First Regular Session of the 127th Legislature.

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

Effective May 1, 2014.

**CHAPTER 115**  
**H.P. 1048 - L.D. 1463**

**Resolve, To Develop a Process  
for Tax Expenditure Review**

**Sec. 1. Office of Program Evaluation and Government Accountability to develop proposal for review of tax expenditures. Re-**

**solved:** That the Office of Program Evaluation and Government Accountability, referred to in this resolve as "the office," shall develop a proposal for implementing a process for ongoing review of tax expenditures by the Legislature for the purpose of facilitating evaluation of the effectiveness of tax expenditures and providing a framework for recommendations to the Legislature and its committees. The proposal must include the following elements:

**1. Classification of tax expenditures.** The assignment of each tax expenditure to one of the following review categories:

- A. Full evaluation review for tax expenditures that are intended to provide an incentive for specific behaviors, that provide a benefit to a specific group of beneficiaries or for which measurable goals can be established;
- B. Expedited review for tax expenditures that are intended to implement broad tax policy goals that cannot be reasonably measured; and
- C. No review for tax expenditures with an impact on state revenue of less than \$50,000 or that otherwise do not warrant either a full evaluation or expedited review;

**2. Schedule.** A schedule for ongoing review of the tax expenditures in the categories identified under subsection 1, paragraphs A and B. To the extent practicable, the office shall attempt to group tax expenditures with similar goals during the same review cycle;

**3. Evaluation parameters for full evaluations.** Evaluation parameters for each tax expenditure identified under subsection 1, paragraph A, including:

- A. The purposes, intent or goals of the tax expenditure;
- B. The intended beneficiaries of the tax expenditure; and
- C. The performance measures appropriate for measuring the extent to which the tax expenditure is accomplishing its purposes, intent or goals. Performance measures must be clear and relevant to the specific expenditure and the following evaluation objectives:

- (1) The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries;