

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 2016 to August 2, 2017

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 1, 2017

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

Augusta, Maine
2017

6. Appeal of Superior Court decision. A challenger may appeal the decision of the Superior Court under subsection 5, on questions of law, by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after notice of appeal is filed. After filing notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of courts. As soon as the record and briefs have been filed, the court shall immediately consider the case. The court shall issue its decision within 14 days of the date of the decision of the Superior Court.

Sec. 4. Retroactivity. Sections 1 and 2 of this Act apply retroactively to November 1, 2016 and apply to any party whose nominee for President of the United States appeared on the ballot at the general election on November 8, 2016.

See title page for effective date.

**CHAPTER 255
H.P. 1127 - L.D. 1634**

**An Act To Update the
Scheduling Guidelines for
Review of Agencies or
Independent Agencies under
the State Government
Evaluation Act**

**Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 3 MRSA §959, sub-§1, ¶P, as amended by PL 2013, c. 505, §1, is further amended to read:

P. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall use the following list as a guideline for scheduling reviews:

- (1) Public Advocate in ~~2015~~ 2019;
- (2) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency in 2015;
- (3) Public Utilities Commission, including the Emergency Services Communication Bureau, in ~~2015~~ 2021; and
- (5) Telecommunications Relay Services Advisory Council in ~~2015~~ 2017.

See title page for effective date.

**CHAPTER 256
H.P. 250 - L.D. 336**

**An Act To Amend the
Requirements of the
Temporary Assistance for
Needy Families Program**

**Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 22 MRSA §3762, sub-§3, as amended by PL 2015, c. 267, Pt. RRRR, §2, is further amended to read:

3. Administration. The department may administer and operate a program of aid to needy dependent children, called "Temporary Assistance for Needy Families" or "TANF," ~~who are deprived of support or care due to the death, continued absence, physical or mental incapacity of a parent or the unemployment or underemployment of the principal wage earner in accordance with the United States Social Security Act, as amended by PRWORA and DRA, and this Title.~~

A. The department shall adopt rules as necessary to implement and administer the program. The rules must include eligibility criteria, budgeting process, benefit calculation and confidentiality. The confidentiality rules must ensure that confidentiality is maintained for TANF recipients at least to the same extent that confidentiality was maintained for families in the Aid to Families with Dependent Children program unless otherwise required by federal law or regulation.

B. The department may use funds, insofar as resources permit, provided under and in accordance with the United States Social Security Act or state funds appropriated for this purpose or a combination of state and federal funds to provide assistance to families under this chapter. In addition to assistance for families described in this subsection, funds must be expended for the following purposes:

- (1) To continue the pass-through of the first \$50 per month of current child support collections and the exclusion of the \$50 pass-through from the budget tests and benefit calculations;
- (2) To provide financial assistance to non-citizens legally admitted to the United States who are receiving assistance under this subsection as of July 1, 2011. Recipients of assistance under this subparagraph are limited to the categories of noncitizens who would be eligible for the TANF programs but for their status as aliens under PRWORA. Eligibility for the TANF program for these categories of noncitizens must be determined using the cri-

teria applicable to other recipients of assistance from the TANF program. Any household receiving assistance as of July 1, 2011 may continue to receive assistance, as long as that household remains eligible, without regard to interruptions in coverage or gaps in eligibility for service. A noncitizen legally admitted to the United States who is neither receiving assistance on July 1, 2011 nor has an application pending for assistance on July 1, 2011 that is later approved is not eligible for financial assistance through a state-funded program unless that noncitizen is:

- (a) Elderly or disabled, as described under the laws governing supplemental security income in 42 United States Code, Sections 1381 to 1383f (2010);
 - (b) A victim of domestic violence;
 - (c) Experiencing other hardship, such as time necessary to obtain proper work documentation, as defined by the department by rule. Rules adopted by the department under this division are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A; or
 - (d) Unemployed but has obtained proper work documentation, as defined by the department by rule. Rules adopted by the department under this division are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A;
- (3) To provide benefits to ~~certain~~ 2-parent families ~~whose deprivation is based on physical or mental incapacity with children using the same eligibility requirements as apply to families headed by a single custodial parent or caretaker relative;~~
- (4) To provide an assistance program for needy children, 19 to 21 years of age, who are in full-time attendance in secondary school. The program is operated for those individuals who qualify for TANF under the United States Social Security Act, except that they fail to meet the age requirement, and is also operated for the parent or caretaker relative of those individuals. Except for the age requirement, all provisions of TANF, including the standard of need and the amount of assistance, apply to the program established pursuant to this subparagraph;
- (5) To provide assistance for a pregnant woman who is otherwise eligible for assistance under this chapter, except that she has no dependents under 19 years of age. An individual is eligible for the monthly benefit for one eligible person if the medically substanti-

ated expected date of the birth of her child is not more than 90 days following the date the benefit is received;

(6) To provide a special housing allowance for TANF families whose shelter expenses for rent, mortgage or similar payments, homeowners insurance and property taxes equal or exceed 75% of their monthly income. The special housing allowance is limited to ~~\$200~~ \$300 per month for each family. For purposes of this subparagraph, "monthly income" means the total of the TANF monthly benefit and all income countable under the TANF program, plus child support received by the family, excluding the \$50 pass-through payment;

(7) In determining benefit levels for TANF recipients who have earnings from employment, the department shall disregard from monthly earnings the following:

- (a) One hundred and eight dollars;
- (b) Fifty percent of the remaining earnings that are less than the federal poverty level; and
- (c) All actual child care costs necessary for work, except that the department may limit the child care disregard to \$175 per month per child or \$200 per month per child under 2 years of age or with special needs;

(7-A) In determining eligibility and benefit levels, the department may apply a gross income test only to applicants and not to recipients;

(8) In cases when the TANF recipient has no child care cost, the monthly TANF benefit is the maximum payment level or the difference between the countable earnings and the standard of need established by rule adopted by the department, whichever is lower;

(9) In cases when the TANF recipient has child care costs, the department shall determine a total benefit package, including TANF cash assistance, determined in accordance with subparagraph (7) and additional child care assistance, as provided by rule, necessary to cover the TANF recipient's actual child care costs up to the maximum amount specified in section 3782-A, subsection 5. The benefit amount must be paid as provided in this subparagraph.

- (a) Before the first month in which child care assistance is available to an ASPIRE-TANF recipient under this paragraph and periodically thereafter, the

department shall notify the recipient of the total benefit package and the following options of the recipient: to receive the total benefit package directly; or to have the department pay the recipient's child care assistance directly to the designated child care provider for the recipient and pay the balance of the total benefit package to the recipient.

(b) If an ASPIRE-TANF recipient notifies the department that the recipient chooses to receive the child care assistance directly, the department shall pay the total benefit package to the recipient.

(c) If an ASPIRE-TANF recipient does not respond or notifies the department of the choice to have the child care assistance paid directly to the child care provider from the total benefit package, the department shall pay the child care assistance directly to the designated child care provider for the recipient. The department shall pay the balance of the total benefit package to the recipient;

(10) Child care assistance under this paragraph must be paid by the department in a prompt manner that permits an ASPIRE-TANF recipient to access child care necessary for work; and

(11) The department shall adopt rules pursuant to Title 5, chapter 375 to implement this subsection. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 22 MRSA §3785, as amended by PL 1997, c. 530, Pt. A, §§20 to 24, is further amended to read:

§3785. Sanctions

An individual may not be sanctioned under this program or Temporary Assistance for Needy Families for failure to participate in the ASPIRE-TANF program if that failure to participate is based on good cause. Each individual participating in an ASPIRE-TANF orientation must receive written and oral notice of what constitutes good cause for nonparticipation in ASPIRE-TANF including the domestic violence exception. Good cause for failure to participate in this program must be found when there is reasonable and verifiable evidence of:

1. Illness or incapacitation. The individual's illness, incapacity or advanced age, or the illness or incapacity of a household member, that requires the individual to provide care in the home;

2. Sexual harassment. Sexual harassment at a program-approved component;

3. Court-required appearance; incarceration. Court-required appearance or incarceration;

~~**4. Lack of supportive services.** Lack or breakdown of necessary supportive services such as child care or transportation with no appropriate alternatives available;~~

~~**5. Inelemt weather.** Inelemt weather that prevents the individual from traveling to an activity when the weather is severe enough to prevent other individuals from traveling to the same activity;~~

~~**6. Assignment to another activity.** Assignment by the department to an activity or component that has not been made part of the family contract;~~

~~**7. Remoteness.** Participation that requires the individual to travel outside the individual's immediate geographic area, defined as an area within a 2 hour round trip commute;~~

8. Crisis or special circumstance. A crisis or special circumstance or other reason that the department determines to be good cause that causes an individual to be absent from or discontinue a department activity about which the department has been advised ~~and has determined to constitute good cause, including lack of transportation or child care necessary for participation when the individual does not have reasonable access to that service and the department cannot offer a reasonable alternative to enable the individual to participate; or~~

~~**12. Other good cause.** Any other reason resulting in failure to participate that is beyond the control of the individual or that a reasonable person would determine to be good cause; or~~

13. Domestic violence. Inability to participate due to domestic violence when the individual is unable to participate because of physical injuries or the psychological effects of abuse; because of legal proceedings, counseling or other activities related to abuse; because the abuser actively interferes with the individual's participation; because the location puts the individual at risk; or for other good cause related to domestic violence. For the purposes of this subsection, reasonable and verifiable evidence may include but is not limited to the following:

A. Court, medical, law enforcement, child protective, social services, psychological or other records that establish that the individual has been a victim of domestic violence; or

B. Sworn statements from persons other than the individual with knowledge of the circumstances affecting the individual.

Sec. 3. Appropriations and allocations.

The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF (FORMERLY DHS)**

Additional Support for People in Retraining and Employment 0146

Initiative: Provides funding to provide Temporary Assistance for Needy Families (TANF) benefits and alternative aid benefits to 2-parent families and to increase from \$200 to \$300 the special housing allowance for families receiving TANF benefits.

FEDERAL BLOCK GRANT FUND	2017-18	2018-19
All Other	\$835,215	\$1,113,620
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FEDERAL BLOCK GRANT FUND TOTAL	\$835,215	\$1,113,620

Temporary Assistance for Needy Families 0138

Initiative: Provides funding to provide Temporary Assistance for Needy Families (TANF) benefits and alternative aid benefits to 2-parent families and to increase from \$200 to \$300 the special housing allowance for families receiving TANF benefits.

FEDERAL BLOCK GRANT FUND	2017-18	2018-19
All Other	\$3,488,787	\$4,651,717
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FEDERAL BLOCK GRANT FUND TOTAL	\$3,488,787	\$4,651,717

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF (FORMERLY DHS)**

DEPARTMENT TOTALS	2017-18	2018-19
FEDERAL BLOCK GRANT FUND	\$4,324,002	\$5,765,337
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DEPARTMENT TOTAL - ALL FUNDS	\$4,324,002	\$5,765,337

See title page for effective date.

**CHAPTER 257
S.P. 198 - L.D. 583**

An Act To Improve the Tax Appeal Process for Maine Businesses and Consumers

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §2011, as amended by PL 2013, c. 331, Pt. C, §10 and affected by §41, is further amended to read:

§2011. Overpayment; refunds

If the State Tax Assessor determines, upon written application by a taxpayer or during the course of an audit, that any tax under this Part has been paid more than once or has been erroneously or illegally collected or computed, the assessor shall certify to the State Controller the amount paid in excess of that legally due. That amount must be credited by the assessor on any taxes then due from the taxpayer and the balance refunded to the taxpayer or the taxpayer's successor in interest, but no such credit or refund may be allowed unless within 3 years from the date of overpayment either a written petition stating the grounds upon which the refund or credit is claimed is filed with the assessor or the overpayment is discovered on audit. Interest at the rate determined pursuant to section 186 must be paid on any balance refunded pursuant to this chapter from the date the return listing the overpayment was filed or the date the payment was made, whichever is later, except that no interest may be paid with respect to the refunds provided by section 2013 and, in cases of excessive or erroneous collections, interest must be paid in accordance with section 1814, subsection 3. At the election of the assessor, unless the taxpayer specifically requests a cash refund, the refund may be credited to the taxpayer's sales and use tax account, but, in the case of a credit no further interest may accrue from the date of that election. The taxpayer may not apply for a refund of any amount assessed when administrative and judicial review under section 151 has been completed.

A taxpayer making an application for a refund or credit of erroneously or illegally collected sales tax paid by the taxpayer to the retailer must submit an affidavit as prescribed by the assessor stating in part that the refund or credit has not been and will not be requested from the retailer.

A taxpayer dissatisfied with the decision of the assessor, upon a written request for refund filed under this section may request reconsideration and appeal from the reconsideration in the same manner and under the same conditions as in the case of assessments made under chapter 7. The decision of the assessor upon a written request for refund becomes final as to law and fact in the same manner and under the same