



# MAINE POLICY BLUEPRINT

NOVEMBER, 2022



**MAINE POLICY**  
I N S T I T U T E

# INTRODUCTION



Maine and our nation are at an important turning point, and the people of Maine demand that something be done to turn our prospects around. Our economy is struggling, our workforce is aging, there are thousands of jobs going unfilled, the education we are providing to our children is failing them, and the prosperity we all dream of feels like it is slipping away.

Worse, our government has—up to this point—responded with hollow gestures and gimmicks that have either ignored the problems we have, or attempted to hide them with federal dollars and programs.

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**Our state government has grown ever larger and more insistent on dictating to us how to live our lives, and its ever-expanding welfare schemes have trapped Mainers in the cycle of dependence.**

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Mainers have in turn faced an onslaught on their sovereignty and self-determination.

We must change.

You, as a leader in this state, have the power in your hand to turn things around. Collectively, if Maine lawmakers understand the challenge ahead of them and agree to pursue a common agenda to meet that challenge, revolutionary change is possible.

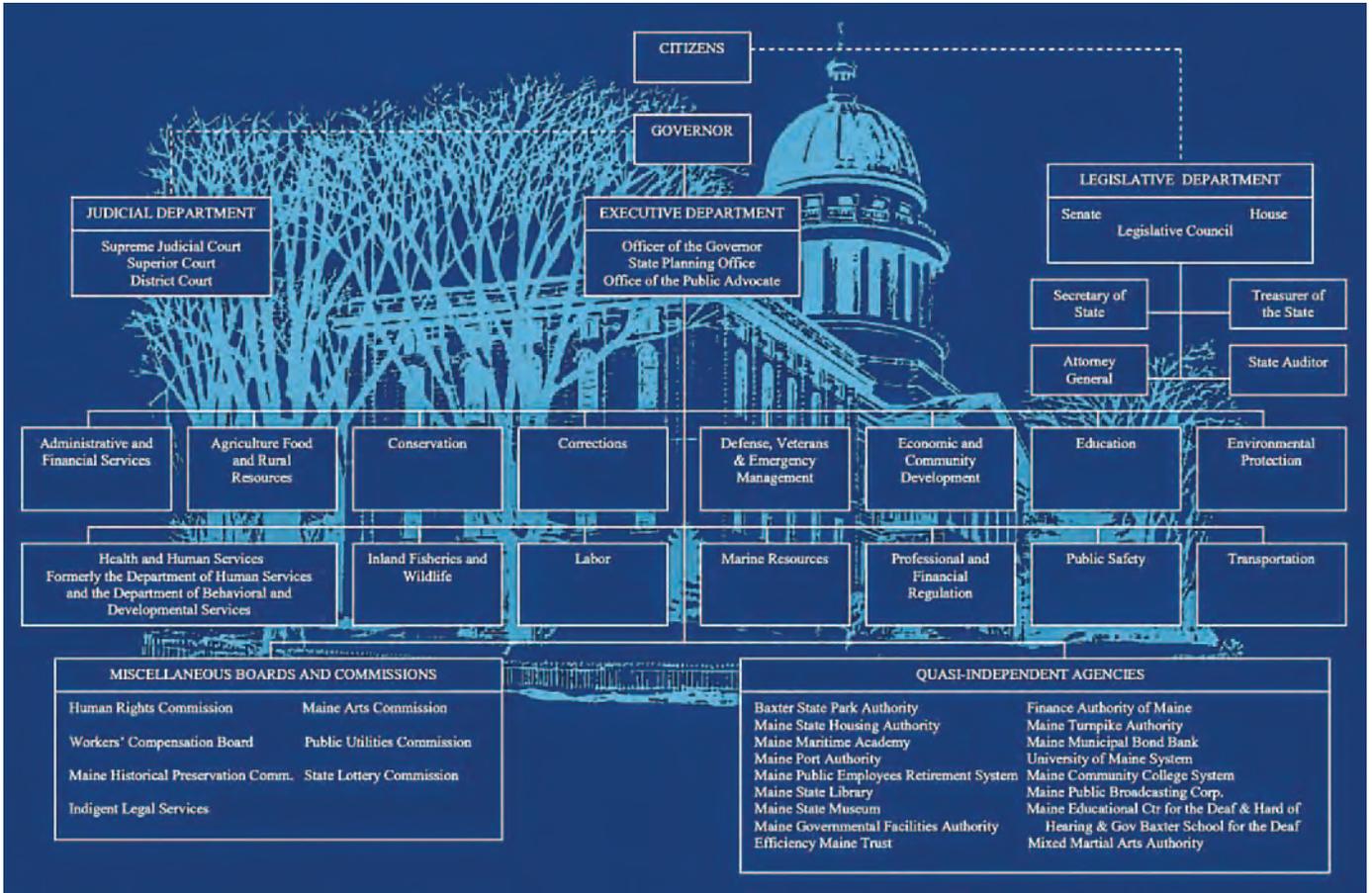
**This policy blueprint is designed to unshackle Maine's economy, deconstruct the oppressive government imposed on our citizens, and make permanent and lasting change on taxes, education, healthcare, energy, and more.** It should be thought of as a first step to transforming our state, not the last. As you work for your constituents, undoubtedly there will be more that you will want to do.

But this is how we start. The 131st Legislature can be the beginning of the rebirth of Maine. It will mark the shifting of the tides toward greater individual liberty, fiscal responsibility, and government transparency. It will provide Mainers with a vision of a state which attracts skilled workers, entrepreneurs, and investment, and one in which leads the region in real growth.

You will be key in making this transformation possible.

**Matthew Gagnon**  
Chief Executive Officer  
Maine Policy Institute

# STRUCTURE OF MAINE GOVERNMENT



# OVERVIEW OF REFORM OPPORTUNITIES



In 1820, Mainers declared their independence from Massachusetts. In 2023, the state will again renew its declaration of independence, this time from the failed philosophy of Massachusetts and California style government which have followed the same doomed trajectory as Washington, DC. For too long, the growth of government has been sought for its own sake, instead of that which best serves the people. That must change moving forward to catalyze a much needed rebirth of the Pine Tree State.

This Blueprint will offer many potential solutions to these issues, whether they be driven by the legislative or executive branches. Every facet of those branches will be reviewed: legislative joint rules, constitutional officers, executive orders, department rulemaking, the procedures by which executive departments promulgate rules, etc.

For instance, the State Auditor's office will be tasked with truly fulfilling its role to fully audit every level of state government, from rulemaking to staffing and budgets, including the possibility of consolidating executive departments, offices, and quasi-government agencies. This will better inform the process of drafting and passing biennial budgets and ensuring that economic health and growth are the priority.

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**Executive departments will be tasked with shedding any rule or regulation which could ultimately harm the economic prospects of Maine people.**

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Departments should institute immediate hiring freezes and zero-base budgeting to slow or stop the growth of the administrative state.

Legislators will be tasked with shepherding bold reform packages to drive the most important policies for encouraging a future of real economic and cultural growth. A primary focus will be to review and repeal any law or regulation which inhibits individual rights and cannot be demonstrated to improve health and safety. The next biennial budget passed by Maine legislators must contain structural tax reform to chart a course of real, long-term growth for the state, and to combat inflation.

Maine's state government simply does too much, very little of which is done well. This Blueprint provides a roadmap for improving Maine state government and prioritizing its most important role in society: protecting the rights and liberties of Maine citizens.

# CABINET LEVEL DEPARTMENTS



# ADMINISTRATIVE AND FINANCIAL SERVICES



The Maine Department of Administrative and Financial Services (DAFS) is responsible for the development of the State of Maine's biennial budget, coordinating the financial planning and programming activities of state agencies, overseeing the administration of tax laws, directing technology services and infrastructure, advising the Maine Legislature on the financial statutes of state government, and the recruitment and retention of one of Maine's largest and most diverse workforces.

## RECOMMENDED POLICY PRIORITIES FOR 2023

Direct the Office of Professional and Occupational Regulation (OPOR) to open a full audit of all occupational licensing rules and regulations and rescind all which are not demonstrated to improve workplace and consumer health and safety.

- Prepare budget with structural tax reform/reductions.
- Implement revenue-triggered tax cuts.
- Budget impasse triggers automatic spending cuts to avoid government shutdown.
- Exempt all income up to \$50,000/year (single filer) from taxes.
- Consolidate upper-income brackets, reduce to 5-6%.
- Full state audit with automatic sunsets for new and existing agency and department rules and regulations.
- Repeal cap on charitable giving, or align limits with federal law.
- Eliminate Revenue Sharing, or reformulate to reward local property tax relief over continued spending.
- Expand Maine Open Checkbook to provide detailed spending and subsidy data from all state government entities.
- Update all websites affiliated with DAFS on organizational structures.

## **RECOMMENDED STRUCTURAL CHANGES TO DEPARTMENT**

- Bring Professional and Financial Regulation under DAFS. publicly posting all accepted RFPs on the bureau's website.
- Conduct a full review of year-over-year budgeting and fluctuations in staffing levels.
- Oversee and enforce zero-base budgeting for biennial budget submission.
- Streamline all processes for vendors, and commit to a culture of transparency by
- List and date each position available in every department by length of time not filled.
- Pursue opportunities to streamline Freedom of Access Act (FOAA) request fulfillment process through OIT, instead of through the particular department under scrutiny.

# AGRICULTURE, CONSERVATION AND FORESTRY

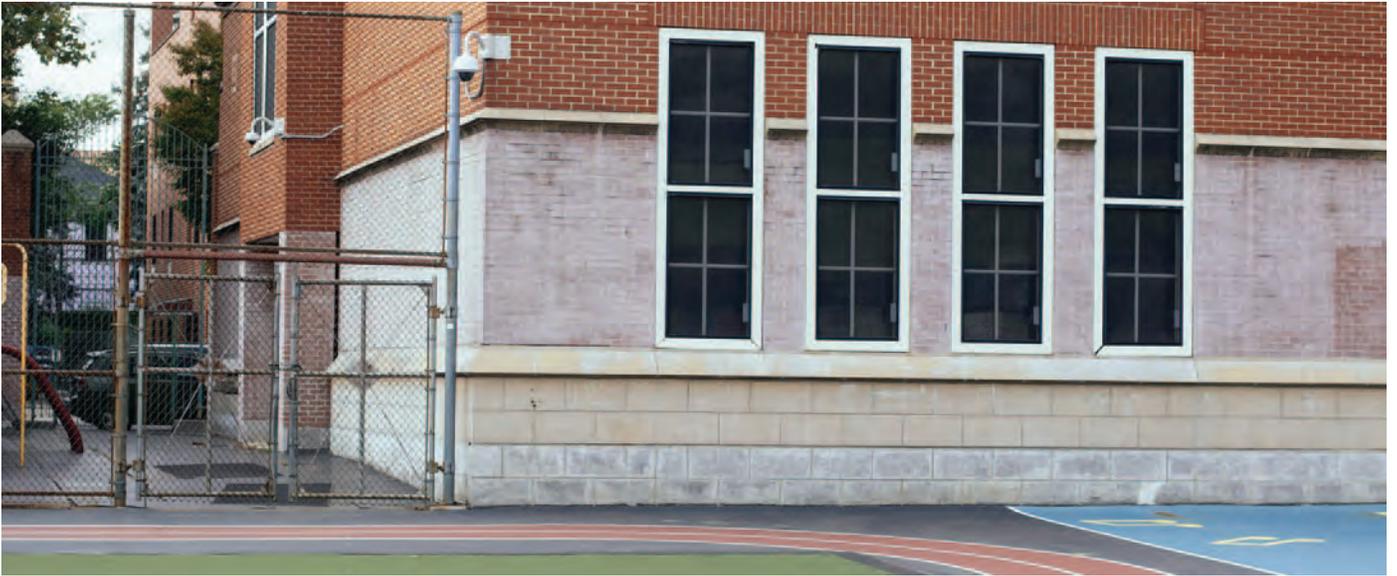


The Maine Department of Agriculture, Conservation and Forestry (DACF) is charged with: promoting and advancing Maine's agricultural resources; protecting and enhancing nearly 18 million acres of forestland; managing more than 700,000 acres of state parks and public lands; and administering numerous science-based programs focused on resource management, land use planning, and conservation.

## **RECOMMENDED POLICY PRIORITIES FOR 2023**

- Offset supply chain issues/inflation costs for Maine farmers.
- Improve forestry management to prevent fires.
- Land for Maine's Future overhaul (cap percentage of land that is taken off tax rolls).
- Overhaul land use planning commission rules and laws.

# CORRECTIONS



The Maine Department of Corrections (MDOC) is responsible for the direction and general administrative supervision, guidance and planning of both adult and juvenile correctional facilities and programs within the State.

# DEFENSE, VETERANS & EMERGENCY MANAGEMENT



The Maine Department of Defense, Veterans and Emergency Management is responsible for managing the activities of Maine's Army and Air National Guard, Maine Veterans' Services and Maine Emergency Management Agency.

# ECONOMIC AND COMMUNITY DEVELOPMENT



The Maine Department of Economic and Community Development's (DECD) broad mission is to help communities and businesses prosper through a variety of programs providing everything from targeted tax relief to community block grants to tourism marketing. DECD and its partners show companies how to benefit from millions of dollars in tax credits, reimbursements, R & D credits, capital loans, even direct investment.

## RECOMMENDED POLICY PRIORITIES FOR 2023

### Maine Connectivity Authority

- Review all open grant applications, rescind all in areas which have already been funded by federal broadband programs.

### Housing & Planning

- Review guidance for municipalities on developing comprehensive plans to remove those which present unnecessary barriers to housing supply.

## RECOMMENDED STRUCTURAL CHANGES TO DEPARTMENT

- Defund Maine Connectivity Authority, devolve ConnectME to focus on data collection.

# EDUCATION



The Department of Education (DOE) is charged with leading the state agency that administers both state education subsidy and state and federal grant programs; coordinates the authoring of the rules for Maine State education statutes passed by the Maine State Legislature; provides professional development, information, supports and resources, as well as a system for educator credentialing; and leads many collaborative opportunities and partnerships in support of local schools and districts.

## RECOMMENDED POLICY PRIORITIES FOR 2023

- Direct every SAU to publish on its website curriculum for every grade level, salary and benefits information for every staff member, and all vendor contracts and RFPs.
- Ensure every student transfer request or Superintendent's Agreement is approved, provided receiving schools have enough space.
- Promote the adoption of open enrollment policies at the school board level.
- Promote the growth of a vibrant ecosystem of educational services, including charter schools, homeschooling resources, private schools.
- Look to positive case studies around the nation in ways to increase choices for families by funding students more directly.
- Direct the University of Maine System to eliminate all COVID-19 vaccine requirements for students and staff.

# ENVIRONMENTAL PROTECTION



The Maine Department of Environmental Protection (DEP) is responsible for protecting and restoring Maine's natural resources and enforcing the state's environmental laws. The agency can trace its roots back to the Sanitary Water Board that was created in 1941. The purpose of that Board was to study, investigate, recommend means of eliminating and preventing pollution in waters used for recreational purposes. The Commissioner's Office has three functional units: Communications and Education, Assistance, and Policy Development and Implementation. The Office as a whole is responsible for coordinating inter- and intra-departmental issues and assuming special assignments as needed by the commissioner and the deputy commissioner.

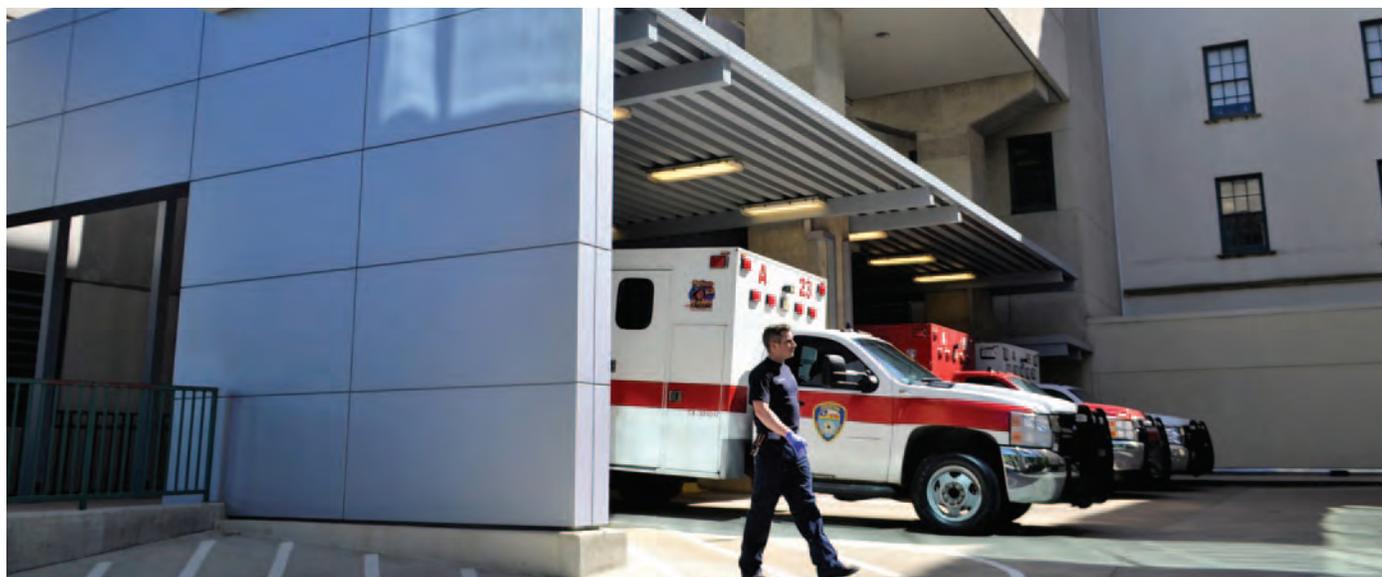
## **RECOMMENDED POLICY PRIORITIES FOR 2023**

- Repeal or roll back ban on open-pit mining.
- De-couple from California Air Resource Board (CARB) emissions standards.
- Grant permit for Shawmut Dam/Sappi Mill.

## **RECOMMENDED STRUCTURAL CHANGES TO DEPARTMENT**

- Change name to "Energy & Environmental Protection," raise Governor's Energy Office staff to department-level importance, add focus on reducing energy costs for Maine homeowners and businesses by looking at ways to advance innovation in the power generation and distribution sectors by reducing state, local, and federal regulatory burdens for those and other energy-intensive industries. Commissioner will collaborate with other state executive branches within the New England power grid (ISO-NE) to develop shared goals to reinvigorate the economy of the region.

# HEALTH AND HUMAN SERVICES



The Maine Department of Health & Human Services (DHHS) is the largest agency in the Maine state government. It provides health care and social services to approximately a third of the state's population, including children, families, older Mainers, and those with disabilities, mental health and substance use disorders. The Department also promotes public health through management of the Maine Center for Disease Control and Prevention, operates two state psychiatric hospitals, and provides oversight to health care providers through its licensing division.

## RECOMMENDED POLICY PRIORITIES FOR 2023

- Rescind CDC rule which added COVID-19 to the vaccination schedule for healthcare workers.
- Immediately freeze Mainecare expansion enrollment.
- Pursue avenues to limit effects of the so-called “welfare cliff.”
- Examine the incentives inherent in the overlapping state welfare programs (TANF, SNAP, MaineCare, etc.) to find areas where the state can promote job-seeking and ultimate financial independence for recipients.

# INLAND FISHERIES AND WILDLIFE



The Maine Department of Inland Fisheries & Wildlife (DIFW) is charged with the protection and management of fish, non-game wildlife, and habitats, as well as restoration of endangered species like the bald eagle. In addition to its conservation duties, DIFW is responsible for enabling and promoting the safe enjoyment of Maine's outdoors — from whitewater rafting to boating, snowmobiling, hunting, fishing, and wildlife observation. The agency's constituents include the fish, wildlife, and people who call Maine home, as well as visiting outdoor enthusiasts and ecotourists who visit Maine and contribute hundreds of millions of dollars each year to the state's economy.

# LABOR



The Maine Department of Labor (DOL) helps employers recruit and train a talented workforce, provide workers with the skills they need, assist individuals when jobs are lost, ensure safe and fair workplaces, and research employment data to support job growth.

The Maine Department of Labor is committed to serving Maine workers and businesses by:

- Helping employers recruit and train a talented workforce;
- Providing workers with the skills they need to be competitive in the economy;
- Assisting individuals when jobs are lost;
- Aiding people with disabilities reach career goals;
- Ensuring safe and fair workplaces for people on the job; and,
- Providing research and analysis of employment data to support job growth.

# MARINE RESOURCES



The Department of Marine Resources is established to conserve and develop marine and estuarine resources; to conduct and sponsor scientific research; to promote and develop the Maine coastal fishing industries; to advise and cooperate with local, state, and federal officials concerning activities in coastal waters; and to implement, administer, and enforce the laws and regulations necessary for these purposes.

## **RECOMMENDED POLICY PRIORITIES FOR 2023**

- Rescind rulemaking around Shawmut Dam.

# PROFESSIONAL AND FINANCIAL REGULATION



The mission of the Department of Professional and Financial Regulation is to protect the citizens of Maine through the regulation of State-chartered financial institutions, the insurance industry, grantors of consumer credit, the securities industry, and numerous professions and occupations providing services to the public.

The Office of Professional and Occupational Regulation (OPOR) is a state agency responsible for protecting the public health, safety and welfare through the regulatory functions of professional and occupational licensing programs. OPOR conducts licensing, examining, and auditing activities by conducting programs aimed at increasing voluntary compliance with State laws, by investigating possible violations of law, and by undertaking enforcement actions. The Department responds to consumer complaints and requests for information and conducts educational and outreach programs to make consumers aware of their rights under Maine laws.

## RECOMMENDED POLICY PRIORITIES FOR 2023

- Review every occupational license and regulation for those which do not directly relate to consumer health and public safety, submit a report on these unnecessary regulations for prompt repeal.
- Grant all occupational licensing applications of those professionals who are in good standing in their previous state of residence.

- Review current fee structures to determine any possible reductions.
- Develop standard operating procedures to reduce opportunities for department discretion in granting or denying licensure.

## RECOMMENDED STRUCTURAL CHANGES TO DEPARTMENT

- Move department under DAFS.

## PUBLIC SAFETY



The Department of Public Safety oversees the State of Maine's public safety bureaus to ensure efficient delivery of the services those agencies provide: Capitol Police, Consolidated Emergency Communications, Maine Criminal Justice Academy, Drug Enforcement, Emergency Medical Services, Fire Marshal's Office, Gambling Control, Highway Safety, and Maine State Police. DPS also consists of Management Office and Legal personnel, under which the advisory Maine Justice Assistance Council was established to provide comprehensive strategic planning and policy direction and to obtain regular guidance and advice from knowledgeable criminal justice practitioners, victim service providers, key stakeholders, and advocates to the Department.

# TRANSPORTATION



The Maine Department of Transportation (MaineDOT) is a cabinet-level state agency with primary responsibility for statewide transportation by all modes of travel. MaineDOT employs approximately 1,800 people and expends or disburses more than \$675 million per year, including federal, state, and local funds. MaineDOT's mission is to effectively manage Maine's existing transportation system for safety and effectiveness within reliable funding levels and wisely invest available resources to support economic opportunity for our customers.

# LEGISLATIVE AGENDA

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# CONSTITUTIONAL OFFICERS

## REFORMING THE PROCESS

Maine is the only state in the nation in which constitutional officers—Secretary of State, State Treasurer, and Attorney General—are selected by the Legislature. Most states have adopted a process of either gubernatorial appointment with Senate confirmation or popular election. Maine’s antiquated system is prone to politicization and partisanship since the party that holds the majority in the Legislature decides who to appoint to these important positions, regardless of the governor’s preferences. This means Maine’s governor and constitutional officers may constantly be at odds with one another, leading to brinkmanship and government dysfunction.

Legislators should pursue a resolution to amend the Maine Constitution to transfer the power to appoint constitutional officers to the governor, with approval by the Senate, or by popular election.

Constitutional officers are important bureaucrats with great influence on public policy, and they play a central role in ensuring that public affairs are carried out in a coherent and nonpartisan way. Constitutional officers have substantial responsibilities.

## ATTORNEY GENERAL

The Attorney General represents the State in civil actions, prosecutes homicides and other serious crimes, and spearheads efforts to recover money for the State. In state lawsuits against the federal government, the Attorney General provides legal advice and counsel.

The duties of the Attorney General are established by Title 5, Chapter 9. These statutes direct the attorney General to discharge various responsibilities, including: representing the State and its agencies in civil actions; prosecuting claims to recover money for the State; investigating and prosecuting homicides and other crimes; consulting with and advising the district attorneys; enforcing proper application of funds given to public charities in the State; and giving written opinions upon questions of law submitted by the Governor, Legislature, or state agencies.

## SECRETARY OF STATE

The Secretary of State is responsible for protecting the integrity of our elections, managing the Bureau of Motor Vehicles, overseeing boards and commissions, and maintaining the State Archives. The Secretary of State oversees one cohesive Department made up of three distinct bureaus: the Maine State Archives, the Bureau of Corporations, Elections and Commissions (CEC), and the Bureau of Motor Vehicles (BMV).

**Recommended priorities:** Voter ID, purge voter lists, mandatory review of municipal rolls every 90 days.

## TREASURER

The Office of the State Treasurer provides state agencies with efficient banking and financial services, which include revenue collection, payment issuance, reconciliation, and trust management. They also manage state investments with safety, liquidity and yield in mind. The office also manages debt payments and issuance, ensuring that bonds authorized by voters are efficiently sold in the marketplace to provide funding for capital projects statewide.

## **STATE AUDITOR**

The Office of the State Auditor provides independent assurance that Maine government is accountable to the people. They examine whether funds are spent legally and properly, and that data and systems are secure. OSA auditors perform their work in accordance with Government Auditing Standards.

**Recommended priorities:** Audit depts, agencies, boards of state govt to root out waste, fraud, abuse, etc., shift state to Zero-Base Budgeting.

# JOINT RULE REFORMS

Joint Rule changes made by ~~strikethrough~~ (delete) or underline (add)

## **Rule 204: Cloture for State Department, Agency or Commission Bills and Resolves at the First Regular Session.**

1. Deadlines for Requests. All requests for bills and resolves submitted by a state department, agency or commission for a first regular session must be submitted to the Revisor of Statutes by 4:00 p.m. on the ~~first Wednesday in December~~ third Wednesday in January.

## **Rule 208. Requirements for Drafting**

A request for a bill or resolve filed with the Revisor of Statutes is considered complete when the request is properly titled and accompanied by sufficient instructions, information and data required for its preparation. When a request is not accompanied by sufficient instructions, information or data, the Revisor of Statutes is directed to give written notice of inadequate information to the legislator. Upon receipt of said written notice, the legislator has 5 business days, unless an alternative period is set jointly by the presiding officers, to file adequate information with the Revisor of Statutes, or the request for the bill or resolve will be denied. Drafts prepared by an outside source must be filed in final form by the appropriate cloture date. Presiding Officers may direct the Revisor of Statutes to prioritize certain bills for drafting.

~~When directed by the sponsor, the Revisor of Statutes shall prepare a bill or resolve in concept form. The bill or resolve shall contain only an enacting clause and a summary of the proposed legislation and shall not be fully drafted by the Revisor of Statutes. The bill or resolve prepared in this form shall be printed and referred to a committee in the same manner as other legislation and may be reported in fully drafted form by that committee in the same manner as other legislation. Except as otherwise provided in this Joint Rule, this method of drafting legislation is not allowed for legislation submitted by the Governor, by agencies or departments of state government, by study commissions, by joint standing or joint select committees or pursuant to law or statute. Any request for a bill or resolve submitted after cloture must state if it is a request for a concept draft. Any committee amendment must be germane to the detailed summary of the concept draft.~~

The Revisor of Statutes shall may prepare in concept form a bill submitted pursuant to the Maine Revised Statutes, Title 5, section 1666 that proposes to make unified appropriations and allocations for the expenditures of state government for the biennium, and shall include an Internet address at which may be found the text of the draft unified budget bill submitted to the Revisor of Statutes by the Governor.

## **Rule 209. Bill Titles and Summaries**

The Revisor of Statutes has authority to change the title of a bill or resolve proposed by the primary sponsor only to ensure that a bill's title is germane to the bill's purpose or intent, and not profane or derogatory. ~~to ensure that the title accurately and concisely reflects the content and scope of the bill or resolve.~~ If the primary sponsor objects to the change, the President of the Senate and the Speaker of the House shall jointly decide what the title should be and shall so notify the Revisor of Statutes.

The Revisor of Statutes shall prepare and include a summary of each bill, resolve and amendment. The Revisor of Statutes has authority to ensure that the summary is concise and accurately reflects the intent of the bill or resolve.

**Rule 215. Actions Related to the United States Constitution.**

All memorials, resolutions, applications and petitions that relate to the Legislature's functions under the United States Constitution, Article V are in order for introduction without approval from the Legislative Council. Passage of these items must be accomplished as follows:

**1. Calling of United States Constitutional Convention.** An item requesting the calling of a United States Constitutional Convention requires a 2/3 majority vote of the members present in each chamber;

**Rule 217. Measures Rejected at a Prior Session.**

A bill, resolve, constitutional resolution, resolution, memorial or order that has been introduced and finally rejected in a regular or special session may not be introduced in a subsequent regular or special session of the same Legislature ~~except by vote of 2/3 of both chambers.~~

**PART 3 LEGISLATIVE COMMITTEES. Subpart A. Joint Standing Committees**

**Rule 301. Joint Standing Committee Responsibilities and Jurisdiction.**

There are established ~~17~~ 19 joint standing committees, which must be appointed at the commencement of the first regular session and which exercise jurisdiction in the following areas:

- Administrative Procedures (APA)
- Agriculture, Conservation and Forestry (ACF)
- Appropriations and Financial Affairs (AFA)
- Criminal Justice and Public Safety (CJPS)
- Education (EDU)
- Energy, Utilities and Technology (EUT)
- Environment and Natural Resources (ENR)
- Government Oversight Committee (GOC)
- Health and Human Services (HHS)
- Health Coverage, Insurance and Financial Services (HCIFS)
- Joint Select Committee on Joint Rules (JTR)
- Judiciary (JUD)
- Labor, Commerce, Research and Economic Development (LCRED)[4]
- Maine's Future (CMF)
- Natural and Cultural Resources (NCR)[5]
- State, Local, and Federal Relations (SLG)[6]
- Taxation (TAX)
- Transportation (TRA)
- Veterans and Legal Affairs (VLA)

**Rule 302. Membership.**

Each of the joint standing committees consists of 13 members, 3 from the Senate and 10 from the House of Representatives. The first Senate member named is the Senate chair. The first House member named

is the House chair. The Senate chair shall preside and in the Senate chair's absence, the House chair shall preside and, thereafter, as the need may arise, the chair shall alternate between the members from each chamber in the sequence of their appointment to the committee. The senate chair shall decide the final public hearing schedule in consultation with the committee analyst and any other staff they may deem necessary for planning. The sequence of appointments for the biennium is as announced by the presiding officers in each chamber. Every member of the Senate and the House of Representatives is entitled to at least one initial committee assignment.

### **Rule 303. Committee Clerks.**

Each committee's Senate chair retains full control of the hiring of that committee's clerks. The hiring of all committee clerks must be mutually agreeable to both the Senate and House chairs. If not agreeable to both, the President of the Senate and the Speaker of the House shall decide. Committee clerks serve at the pleasure of the President of the Senate and the Speaker of the House. The salary of each committee clerk is established by the President of the Senate and the Speaker of the House, and the employment of the committee clerks terminates no later than the end of the session. The Office of Fiscal and Program Review shall provide clerical support to the Joint Standing Committee on Appropriations and Financial Affairs.

### **Rule 303.1. Caucus Analysts.**

Each party caucus of each chamber may direct the Office of Policy and Legal Analysis to hire up to an additional eight analysts to assist committee members with bill drafting and analysis.

### **Rule 308. Reference of Bills to Committee.**

**2. Legislature Not in Session.** When the Legislature is not in session or is in recess for more than 4 days, the Secretary of the Senate and Clerk of the House may refer the bills to the appropriate joint standing committee for public hearing and order printing, subject to the approval of the President of the Senate and the Speaker of the House.

### **Rule 310. Reports of Bills from Committee.**

**2. Committee Reports.** The report of the committee must include a recommendation. Recommendations that may be made are:

- Ought to Pass
- Ought to Pass as Amended
- Ought to Pass in New Draft
- Ought Not to Pass
- Refer to Another Committee
- Leave to Withdraw
- Chair's Report

Except for Leave to Withdraw and Chair's Report, the committee shall vote on all recommendations to be included in reports on a bill during a work session on that bill. When the committee recommendation is not unanimous, a minority report or reports are required. Except as provided in subsection 5, minority committee reports must be voted on at the same work session as the majority report on that bill. Notwithstanding subsection 5, a committee vote to report a bill out favorably must be taken based on

written language before the committee at that time or on a motion describing the content of the report. After a committee vote, no substantive change may be made in the committee report unless motions to reconsider and to amend the report are approved at a committee work session. All reports on any legislative document must be submitted to the Legislature at the same time.

~~**4. Ought to Pass in New Draft Report.** When the changes voted by the committee are major, the committee may elect to report the bill out "Ought to Pass in New Draft," with authorization of the presiding officers. When a plurality of the committee recommends this report, the chairs shall submit a request for authority to report the bill out in this fashion. New drafts printed pursuant to these rules must include the legislative document number that the new bill replaces and the names of the original sponsor and cosponsors. The Secretary of the Senate and the Clerk of the House shall determine the number of copies that must be printed of each new draft.~~

### **Rule 312. Fiscal Notes**

~~Every bill or resolve that affects state revenues, appropriations or allocations or that requires a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues and that has a committee recommendation other than "Leave to Withdraw," "Chair's Report," "Ought Not to Pass" or "Referral to Another Committee" must include a fiscal note prepared by the Office of Fiscal and Program Review. For a bill or resolve not yet reported out and upon request of a majority of the committee, the Office of Fiscal and Program Review shall, after notice by the committee to the sponsor of the bill or resolve, meet with the committee at a work session to present its analysis and provide copies of the written public materials relied upon by the office to prepare that fiscal note. The fiscal note must accompany the committee report before it is reported out of committee. Any amendment introduced that would affect the fiscal impact of the original bill must also include a fiscal note. The Office of Fiscal and Program Review has the sole responsibility for preparing all fiscal notes.~~

### **Rule 317. Review of provisions affecting the Fund for a Healthy Maine.**

~~Whenever a legislative proposal in a resolve or bill, including a budget bill, affects the Fund for a Healthy Maine under the Maine Revised Statutes, Title 22, section 1511, or involves funding from the Fund for a Healthy Maine, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over health and human services matters to review and evaluate the proposal as it pertains to the Fund for a Healthy Maine. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall conduct the review and report back to the committee of jurisdiction and to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.~~

## **PART 4 FLOOR ACTION ON LEGISLATION**

### **Rule 401. Printing of Bills.**

Every bill or resolve submitted by a Legislator must be printed unless withdrawn by the sponsor before printing. After it is printed, a bill or resolve is considered to be in the possession of the Legislature and may not be withdrawn by the sponsor. Every bill presented for reference to committee or to be engrossed without reference to committee must be printed before appearing on the Advance Journal and Calendar

of either chamber. Senate committee Chairs may submit a list of no more than 5 bills to the Revisor of Statutes to be prioritized for printing for each committee. The Revisor of Statutes must print those priority bills before any other to that committee.

Every amendment must be printed and distributed before being taken up in either chamber. Every committee amendment must indicate the committee making the report.

The Secretary of the Senate and the Clerk of the House are responsible for the printing and initial distribution of legislative documents and amendments.

### **Other possible Joint Rule reforms not contained here**

- Restrict number of bill requests per lawmaker
- Concept Draft loophole - bills substantially changed must receive another public hearing before the committee reports it out.

## **PROPOSED JOINT COMMITTEE RESTRUCTURING**

To accomplish a bold, conservative agenda to restore growth and prosperity to Maine, legislative leadership should slightly restructure the joint committees which hold public hearings and work sessions on bills.

Policy priority bills, each of which will be signified by “...for Maine’s Future” at the end of its title, will be referred to a new Joint Committee on Maine’s Future (CMF). This committee will contain members of other committees which deal with subjects relevant to those which come before CMF.

In addition to the creation of CMF, leadership should re-combine the Committee on Labor & Housing (LBHS) with the Committee on Innovation, Development, Economic Advancement, and Business (IDEA-B), to become its former iteration: the Committee on Labor, Commerce, Research and Economic Development (LCRED).

A new committee on administrative rules should be created to comprehensively review executive department rulemaking, past and present, modeled after the American Legislative Exchange Council’s (ALEC) Administrative Procedures Act.

The “State and Local Government” committee should expand its purview to take on bills dealing with elections (instead of “Veterans and Legal Affairs”), firearms (instead of “Criminal Justice and Public Safety”), and other issues of federal overreach.

A committee on Natural and Cultural Resources should be created by combining the current “Inland Fisheries and Wildlife” and “Marine and Natural Resources” committees, while bringing in bills related to historical societies, museums, and media from the “Education” committee.

# LEGISLATIVE PRIORITIES

Too much of Maine law is devoted to allowing unelected bureaucrats to write the rules by which Mainers must actually live. Legislators have, for too long, knowingly ceded much of their power to the executive branch. Questions that used to be decided as matters of state policy via the legislative process have instead become the mechanisms by which the priorities of the current political administration are fulfilled. “Routine technical” rulemaking has, in many of these instances, replaced the deliberative process of legislative advice and approval found in “major substantive” rulemaking. A fundamental goal of this 131st Legislature will be to restore accountability and integrity to the regulatory process by codifying as much rulemaking as possible to be considered “major substantive” in order to ensure that power is retained by the people’s branch, and not executive appointees.

## **An Act to Restore Fiscal Order**

**Bill Description:** Eliminate Inactive Boards and Commissions. Any revenue exceeding last fiscal year plus average growth of personal income must be transferred to the Budget Stabilization Fund. If the Legislature fails to enact a budget, all state agencies must cut 10%.

**Referral:** Committee for Maine’s Future

**Full Text:** Page 34

## **An Act to Reduce the Income Tax to 4.5% and Remove Low-Income Families from Taxation**

**Bill Description:** Tax Relief Fund established to collect state revenues which exceed the previous years budget over the growth of average personal income in the state, and directed toward reducing tax rates such that all individual income made up to \$50,000/year is exempt from taxes and all other remaining income is taxed at 4.5%.

**Referral:** Committee for Maine’s Future

**Full Text:** Page 39

## **An Act to Promote Educational Opportunity**

**Bill Description:** Businesses and individuals may write off donations to tax-exempt scholarship-making organizations to fund the educational expenses of a student living in households making under twice the free-and-reduced lunch income limit attending a qualified public school, private school, or using home-based educational services and materials. Eliminates limits on virtual charter school enrollment and expansion, as well as the overall statewide charter school limit. Allows nonprofits and institutions of higher education to authorize charter schools.

**Referral:** Committee for Maine’s Future

**Full Text:** Page 40

## **An Act to Guarantee Educational Access Resources for Students (GEARS)**

**Bill Description:** Mandatory Interdistrict Open Enrollment: any student may petition for transfer to another SAU with space at no added cost.

**Referral:** Committee for Maine’s Future

**Full Text:** Page 45

## **Resolve to Enact the Maine Education Blueprint**

**Description:** Grant to employers for each person employed undergoing a workforce training program. Prohibit use of and reliance upon educational curricula and/or training programs which teach critical social justice (CSJ) ideology. Prohibit any requirement for licensed teachers to espouse CSJ ideology. Local curriculum transparency. Education Savings Account program for eligible students to direct their share of state and local funds to the education provider(s) of their choosing.

**Referral:** Committee for Maine's Future

**Full Text:** Page 48

## **An Act to Restore Workplace Freedom**

**Bill Description:** Eliminate the requirement for public employees to pay a fee to a labor union as a condition of employment. Require unions obtain biennial recertification via majority support of their members. Prohibit any worker from being obligated to join or pay a fee to a labor union as a condition of employment (Right-To-Work). De facto ends exclusive representation provisions in collective bargaining agreements.

**Referral:** Committee for Maine's Future

**Full Text:** Page 62

## **An Act To Promote Self-Sufficiency**

**Bill Description:** Receiving general assistance disqualifies a person from also receiving TANF. Limit receipt of general assistance for those capable of working and without dependents to 275 days every 5 years. Gradually reduce benefits commensurate with an individual's salary to limit "welfare cliff". Establish an 180-day residency requirement to receive benefits. Prohibit the use of EBT cards for cash withdrawals or for purchases outside Maine.

**Referral:** Committee for Maine's Future

**Full Text:** Page 65

## **An Act To Reduce the Regulation of Child Care Facilities**

**Bill Description:** Allow recipients of child care subsidies to pay the difference of amount charged by a provider. Licensed child care providers in continuous operation for 5 years are eligible for a 5-year license upon renewal. Remove added state scrutiny of "quality care" emphasis. Allow family care providers to watch up to 4 children before licensure. Increase required child-to-staff ratios to national norm.

**Referral:** Committee for Maine's Future

**Full Text:** Page 70

### **An Act to Restore Balanced Emergency Powers**

**Bill Description:** Affirmative vote of the legislature required to continue a state of emergency beyond 30 days, and every 30 days. Only the governor may declare a state of emergency and issue emergency orders which infringe on constitutional rights. A joint resolution of the Legislature may rescind or alter any emergency order issued by the governor, in whole or in part. The governor cannot issue an emergency declaration for a similar circumstance to those which have expired or been terminated. Orders must be narrowly tailored, and challenges must receive expedited judicial review. No agency may enter emergency rulemaking without an emergency declaration from the governor.

**Referral:** Committee for Maine’s Future

**Full Text:** Page 80

### **An Act to Ensure a Sustainable Grid**

**Bill Description:** Repeal the 100 megawatt cap on all renewable energy generation. Repeal the Expedited Wind Law. End residential solar net metered billing. End large scale solar subsidies. Repeal RPS. Leave the Regional Greenhouse Gas Initiative (RGGI), or cap overall RGGI spending and disburse extra funds to ratepayers after the cap is reached.

**Referral:** Committee for Maine’s Future

**Full Text:** Page 83

### **An Act to Expand Health Care Choice**

**Bill Description:** Mandate higher incentives under Right-To-Shop plans. Repeal Certificate of Need (CON)

**Referral:** Committee for Maine’s Future

**Full Text:** Page 86

### **An Act to Require Legislative Review of DAFS Rulemaking**

**Bill Description:** Change rule-making to become “major substantive”

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 88

### **An Act to Restore Accountability in Rulemaking**

**Bill Description:** Establishes the Joint Committee on Administrative Rules. Requires impact analysis by a state agency (Legislative Economic Analysis Unit) of all rules, regulations, or grants. Allows any group of 100 or more citizens affected by a rule to petition the Legislature to review it.

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 89

### **An Act to Reform the Administrative State**

**Bill Description:** Require courts to interpret statute as is instead of deferring to agency interpretation. Require sunset review of all proposed rules and regulations. No rule may be adopted without approval of the governor. Restrict automatic provisional rule adoption.

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 95

### **An Act to Repeal Personal Property Tax Collection**

**Bill Description:** Eliminate personal property/excise tax

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 98

### **An Act to Base the Motor Vehicle Excise Tax on Sale Price**

**Bill Description:** Allow municipalities to assess the excise tax based on the purchase price of the vehicle rather than the MSRP price.

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 99

### **An Act to Prohibit Local Sales Taxes**

**Bill Description:** Prohibit municipalities from imposing a local-option sales tax.

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 101

### **An Act To Promote Philanthropy**

**Bill Description:** Repeal cap on charitable giving, or align limits with federal law

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 102

### **An Act to Reform Revenue Sharing and Promote Local Property Tax Relief**

**Bill Description:** Revenue sharing to reward localities for reducing their property tax burden below their 5-year average.

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 103

### **Resolve, Establishing the Maine Agency Audit**

**Bill Description:** Independently audit every state department for waste, fraud, and abuse of tax dollars

**Referral:** Appropriations & Financial Affairs | Taxation

**Full Text:** Page 109

### **An Act to Restore Legislative Oversight of Criminal Code**

**Bill Description:** Change rule-making to become “major substantive”.

**Referral:** Criminal Justice & Public Safety

**Full Text:** Page 110

### **An Act to Promote Rehabilitation over Incarceration for Minor Drug Possession**

**Bill Description:** Makes possession of prohibited drugs a civil infraction, up to \$100 fine. “If a person in violation of this section is unable to pay the fine, as an alternative sentence in place of the fine the court may refer the person to a...drug treatment facility”

**Referral:** Criminal Justice & Public Safety

**Full Text:** Page 111

**An Act to Increase the Penalty for Sex Trafficking**

**Bill Description:** Makes sexual trafficking a Class A crime (from Class B)

**Referral:** Criminal Justice & Public Safety

**Full Text:** Page 113

**An Act to Restore Legislative Oversight of DOE Rules**

**Bill Description:** Change rule-making to become “major substantive”

**Referral:** Education

**Full Text:** Page 114

**An Act to Protect Speech and Press on Campus**

**Bill Description:** Ensure U:MS students’ free speech is protected by school policy & state law

**Referral:** Education

**Full Text:** Page 115

**An Act to Restore the Rights of Maine School Children**

**Bill Description:** Eliminate the exception for schools, libraries, and educational institutions to provide obscene materials to minors

**Referral:** Education

**Full Text:** Page 120

**An Act to Restore Legislative Oversight of DEP Rules**

**Bill Description:** Change rule-making to become “major substantive”.

**Referral:** Energy & Utilities

**Full Text:** Page 121

**An Act to Promote Innovation and Internet Access**

**Bill Description:** Eliminate the Maine Connectivity Authority.

**Referral:** Energy & Utilities

**Full Text:** Page 122

**An Act to Restore Religious and Philosophical Exemptions for Immunization Requirements**

**Bill Description:** Restore religious and philosophical exemptions from the required vaccination schedule for schoolchildren and healthcare workers. Exempt private & virtual charter students from state immunization requirements.

**Referral:** Health and Human Services (HHS)

**Full Text:** Page 123

### **An Act to Reform Maine’s Outdated Occupational Licensing Regime**

**Bill Description:** Universal Recognition of all licenses in good standing for at least a year from any US state. Remove the use of “good character” clauses in licensure or certification.

Direct a full agency review and report based on necessity for health and safety.

**Referral:** LCRED: Labor and Housing + IDEA

**Full Text:** Page 125

### **An Act to Reform Outdated Wage Laws**

**Bill Description:** Repeal the prevailing wage law, reduce fringe benefits for prevailing wage workers. Freeze the state minimum wage at \$12.00, eliminate indexing to CPI. Establish a youth minimum wage, eliminate requirement for 16-year-olds’ work permits to be signed by their school superintendent

**Referral:** LCRED: Labor and Housing + IDEA

**Full Text:** Page 129

### **An Act to Eliminate Certain Motor Vehicle Inspections**

**Bill Description:** End non-commercial vehicle inspection mandates

**Referral:** Transportation

**Full Text:** Page 130

### **Resolution for a Constitutional Amendment to Fund the Roads**

**Bill Description:** Shift 50% of sales tax revenues from auto parts & mechanical related sales to the Highway Fund to close the perennial transportation funding shortfall. Use some of those revenues to ratchet down fuel tax

**Referral:** Transportation

**Full Text:** Page 133

# LEGISLATIVE TEXT

The background of the page is a solid blue color. In the center, the words "LEGISLATIVE TEXT" are written in a bold, white, sans-serif font. Below the text, there are four overlapping, semi-transparent blue arrows pointing towards the right. The arrows are layered, with each subsequent arrow being slightly larger and shifted further to the right, creating a sense of depth and movement.

# AN ACT TO RESTORE FISCAL ORDER

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

**Sec. 1. 5 MRSA §55**, as amended by PL 2003, c. 20, Pt. 00, §2 and affected by §4, is repealed.

**Sec. 2. 5 MRSA §55-A**, as enacted by PL 2003, c. 238, §1 and affected by §2, is repealed.

**Sec. 3. 5 MRSA §90-T**, as enacted by PL 2011, c. 304, Pt. D, §2, is repealed.

**Sec. 4. 5 MRSA §1547**, sub-§7, as enacted by PL 2003, c. 451, Pt. F, §2 and amended by c. 600, §4, is amended to read:

**7. Other related organizations.** All legislatively created public instrumentalities and related organizations for which the State is financially accountable or that have a significant relationship with the State as defined by a governmental accounting standards board that are not included in subsection 3, ~~including but not limited to eligible institutions as defined in section 13103~~, that receive funds from bond issues must comply with the fiscal reporting policies established by the State Controller. The fiscal and reporting policies must include:

A. Internal control standards required by section 1541, subsection 10-A;

B. Quarterly reporting to the State Controller that includes a detail of transactions and reconciliation of all accounts;

C. No later than October 15th annually, submission to the Department of Administrative and Financial Services, Office of the State Controller of all financial statements and schedules of expenditures of federal awards;

D. Financial statements that are prepared in accordance with the standards and requirements established by a governmental accounting standards board; and

E. Submission annually to the Department of Administrative and Financial Services, Office of the State Controller of a copy of the independent auditor's report, including any findings, recommendations and management letter comments, and any other materials considered necessary by the State Controller.

Legislatively created public instrumentalities and other related organizations required to comply under this subsection who that must also comply with the federal Office of Management and Budget circulars, regulations issued by a governmental accounting standards board or other accounting, auditing and reporting requirements may submit that information to the State Controller to satisfy the requirements of this subsection.

**Sec. 5. 5 MRSA §12004-G**, sub-§4-B, as enacted by PL 2001, c. 196, §1, is repealed.

**Sec. 6. 5 MRSA §12004-G**, sub-§10-E, as enacted by PL 2013, c. 593, §1, is repealed.

**Sec. 7. 5 MRSA §12004-I**, sub-§2-E, as enacted by PL 1999, c. 566, §2, is repealed.

**Sec. 8. 5 MRSA §12004-I**, sub-§2-G, as amended by PL 2011, c. 304, Pt. D, §3, is repealed.

**Sec. 9. 5 MRSA §12004-I**, sub-§4-B, as enacted by PL 2007, c. 503, §1, is repealed.

- Sec. 10. 5 MRSA §12004-I**, sub-§17, as enacted by PL 1987, c. 786, §5, is repealed.
- Sec. 11. 5 MRSA §12004-I**, sub-§22-B, as amended by PL 2011, c. 206, §1, is repealed.
- Sec. 12. 5 MRSA §12004-I**, sub-§36-D, as enacted by PL 1997, c. 560, Pt. D, §1, is repealed.
- Sec. 13. 5 MRSA §12004-K**, sub-§12, as enacted by PL 1987, c. 786, §5, is repealed.
- Sec. 14. 5 MRSA §12004-L**, sub-§10, as enacted by PL 1993, c. 381, §9, is repealed.
- Sec. 15. 5 MRSA c. 383**, sub-c. 5-A, as amended, is repealed.
- Sec. 16. 5 MRSA §15303**, sub-§6-B, as enacted by PL 2001, c. 196, §10, is repealed.
- Sec. 17. 10 MRSA §949**, sub-§2, ¶B, as enacted by PL 2007, c. 420, §7, is amended by amending subparagraph (3) to read:
- (3) Four representatives of the ~~Maine Biomedical Research Board established pursuant to Title 5, section 12004-G, subsection 4-B~~ from bioscience research laboratories;
- Sec. 18. 20-A MRSA §5151**, sub-§2, ¶D, as amended by PL 2007, c. 667, §9, is further amended to read:
- D. Function as a liaison among the commissioner, department staff, ~~advisory committee~~ and school administrative units and private schools as it pertains to truants, dropouts and reintegration, alternative education programs, alternative learning and adult education;
- Sec. 19. 20-A MRSA §5151**, sub-§2, ¶K, as amended by PL 2001, c. 452, §12, is further amended to read:
- K. Evaluate the scope of the problem of dropouts and truants and programs and policies directed to meet it, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities and have enrolled in schools in the State; and
- Sec. 20. 20-A MRSA §5151, sub-§2, ¶L**, as enacted by PL 1985, c. 774, §5, is repealed.
- Sec. 21. 20-A MRSA §5152**, as amended by PL 2007, c. 667, §§10 and 11, is repealed.
- Sec. 22. 20-A MRSA c. 437**, as amended, is repealed.
- Sec. 23. 22 MRSA §271**, sub-§2, as enacted by PL 1997, c. 560, Pt. D, §2, is repealed.
- Sec. 24. 22 MRSA §272, sub-§1**, as enacted by PL 1997, c. 560, Pt. D, §2, is amended by amending the first blocked paragraph to read:
- The bureau shall administer the program ~~with the review and advice provided by the council in subsection 2~~ and may contract for professional services to carry out the program.
- Sec. 25. 22 MRSA §272, sub-§2**, as amended by PL 2011, c. 657, Pt. AA, §58, is repealed.
- Sec. 26. 25 MRSA §2952, sub-§4**, as enacted by PL 1991, c. 837, Pt. B, §11 and c. 841, §8, is repealed.
- Sec. 27. 25 MRSA §2954**, as repealed and replaced by PL 1993, c. 680, Pt. B, §2, is repealed.
- Sec. 28. 25 MRSA §2955, first ¶**, as repealed and replaced by PL 1993, c. 680, Pt. B, §3, is amended to read:
- The commissioner shall establish and operate within the Maine Drug Enforcement Agency such regional investigative task forces as the commissioner determines, ~~in consultation with the board~~, are required for effective drug law enforcement throughout the State.

**Sec. 29. 25 MRSA §2955, 2nd ¶**, as repealed and replaced by PL 1993, c. 680, Pt. B, §3, is amended to read:

The investigative component of each task force is comprised of law enforcement officers drawn from municipal, county and state law enforcement agencies, who, during the period in which they serve in the task force, must be placed on a temporary assignment by their employing law enforcement agencies and in the non-classified positions within the agency as established. All agency investigative personnel may not be state employees, for the purposes of Title 26, chapter 9-B. All agency investigative personnel shall act in accordance with rules, policies and procedures established by the commissioner. In determining the number, areas of responsibility and investigative complement of these task forces, the commissioner shall take into account geography, population, and the need for service ~~and the advice provided by the board.~~

**Sec. 30. 25 MRSA §2955, sub-§1**, as repealed and replaced by PL 1993, c. 680, Pt. B, §3, is amended to read:

**1. Director.** The agency is managed by a director who reports to the commissioner. The director must be an experienced law enforcement officer. The Chief of the State Police, the Maine Sheriffs' Association and the Maine Chiefs of Police Association may each nominate one candidate as director for submission to the ~~Maine Drug Enforcement Agency Advisory Board. The advisory board shall submit one of the 3 nominations to the~~ commissioner, who may appoint that person one of the candidates with the approval of the Governor. If the commissioner or the Governor does not approve of the ~~candidate~~ 3 candidates submitted, each of the nominating groups is requested to submit an additional nomination. The director serves at the pleasure of the commissioner. Eligibility for this appointment is not dependent upon the parent law enforcement agency, if any, of the person selected. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. The director reports directly to the commissioner, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any ~~other~~ provision of law to the contrary, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as director.

**Sec. 31. 25 MRSA §2956, sub-§1**, as repealed and replaced by PL 1999, c. 790, Pt. A, §32, is amended to read:

**1. Rules.** The commissioner shall, ~~with the advice of the board,~~ adopt rules, practices and policies respecting the administration of the agency. The rules, practices and policies of the agency must be in conformity with state law and must accomplish the goal of an integrated drug enforcement effort. These rules, practices and policies may include:

- A. The qualifications, hiring, term of service and disciplinary standards for commanders, supervisors and agents;
- B. Protection as to financial and employment security for any law enforcement officer selected as any official of the agency with respect to the person's position with any municipal, county or state law enforcement policy or political subdivision;
- C. Standard operating procedures for the agency;

D. Procurement procedures; or

E. Procedures for dissemination of records.

**Sec. 32. 25 MRSA §2957**, as amended by PL 2011, c. 662, §17, is further amended to read:

**§2957. Confidentiality**

Notwithstanding any ~~other provisions~~ provision of law to the contrary, the investigative records of the agency are confidential and all meetings of the board are subject to Title 1, chapter 13, subchapter 1, except that those meetings may be held in executive session to discuss any case investigations or any disciplinary actions.

**Sec. 33. 25 MRSA §2958**, as repealed and replaced by PL 1999, c. 790, Pt. D, §8, is amended to read:

**2958. Prosecution protocol**

The Attorney General, after consultation with the 8 district attorneys, the United States Attorney for the District of Maine and the ~~board~~ agency, shall establish by rule a protocol that governs the selection of the state or federal court system for prosecution of drug cases investigated by the agency.

**Sec. 34. 34-A MRSA §3002-B**, as enacted by PL 2007, c. 503, §2, is repealed.

**Sec. 35. 38 MRSA §343-D**, as amended by PL 2011, c. 206, §§5 and 6 and affected by §37, is repealed.

**Sec. 36. 38 MRSA §353-A, sub-§4**, as amended by PL 1993, c. 500, §3 and affected by §5, is further amended to read:

**4. Maximum and minimum fees.** The minimum annual fee is \$250 per year. The maximum annual fee is \$150,000 per year. Beginning November 1, 1994, the minimum annual fee surcharge is \$100 per year and the maximum annual fee surcharge is \$50,000 per year. The commissioner may reduce any fee required under the federal Clean Air Act Amendments of 1990 to take into account the financial resources of a small business stationary source as ~~defined in section 343-D, subsection 1, which for the purposes of this subsection means a source that meets the eligibility requirements of 42 United States Code, Section 7661f.~~

**Sec. 37. 5 MRSA §1518-A**, as enacted by PL 2005, c. 2, Pt. A, §4 and affected by §14, is amended to read:

**§ 1518-A. Tax Relief Fund for Maine Residents**

**1. Tax Relief Fund for Maine Residents.** There is created the Tax Relief Fund for Maine Residents, referred to in this section as "the fund," which must be used to provide individual income tax relief to residents of the State. The fund consists of all resources transferred to the fund under this section and section 1536 and other resources made available to the fund.

**2. Nonlapsing fund.** Any unexpended balance in the ~~Tax Relief Fund for Maine Residents~~ may fund does not lapse but must be is carried forward to be used pursuant to ~~subsection~~ subsections 1 and 4.

**3. Transfer from revenue growth.** Beginning with fiscal year 2023-24, at the close of each fiscal year, the State Controller shall transfer to the fund any General Fund revenue received by the State for the fiscal year being closed that exceeds the amount of General Fund revenue received by the State for the previous fiscal year, adjusted by the growth limitation factor calculated under section 1534, subsection 2.

**Sec. 38. 5 MRSA**

**§1501. Uniform fiscal year**

The fiscal year of the State Government shall commence on the first day of July and end on the 30th day of June each year. The fiscal year shall be followed in making appropriations and in financial reporting, and shall be uniformly adopted by all departments and agencies of the State Government. If legislature fails to enact an appropriations budget by the fiscal year, all state agencies shall reduce spending by 10% on the first day of the next fiscal year.

# AN ACT TO REDUCE THE INCOME TAX TO 4.5% AND REMOVE LOW-INCOME FAMILIES FROM TAXATION

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

Sec. 1. 5 MRSA §1518-A, as enacted by PL 2005, c. 2, Pt. A, §4 and affected by §14, is amended to read:

## § 1518-A. Tax Relief Fund for Maine Residents

**1. Tax Relief Fund for Maine Residents.** There is created the Tax Relief Fund for Maine Residents, referred to in this section as "the fund," which must be used to provide individual income tax relief to residents of the State. The fund consists of all resources transferred to the fund under this section and section 1536 and other resources made available to the fund.

**2. Nonlapsing fund.** Any unexpended balance in the Tax Relief Fund for Maine Residents ~~may fund~~ does not lapse but must be is carried forward to be used pursuant to ~~subsection~~ subsections 1 and 4.

**3. Transfer from revenue growth.** Beginning with fiscal year 2023-24, at the close of each fiscal year, the State Controller shall transfer to the fund any General Fund revenue received by the State for the fiscal year being closed that exceeds the amount of General Fund revenue received by the State for the previous fiscal year, adjusted by the growth limitation factor calculated under section 1534, subsection 2.

**4. Income tax reduction.** Amounts contained in the fund must be used to reduce individual income taxes. If on December 1st of any fiscal year the fund exceeds \$1,000,000, the State Tax Assessor shall submit legislation to the Legislature by January 15th of that fiscal year to reduce the income tax burden pursuant to this section. The legislation must ensure that any amounts contained in the fund are used to:

A. Reduce individual income tax rates until a top rate of 4.5% is reached; and

B. Increase to \$50,000 the income threshold below which heads of household and married couples filing jointly pay no state income tax.

# AN ACT TO PROMOTE EDUCATIONAL OPPORTUNITY

Model Scholarship Tax Credit Legislation | Cato Institute

## **PREAMBLE.**

The Maine Legislature finds:

- 1) it has the inherent power to determine subjects of taxation for general or particular public purposes;
- 2) expanding educational opportunities and improving the quality of educational services within the State are valid public purposes that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation;
- 3) ensuring that all parents, regardless of means, may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation;
- 4) expanding educational opportunities and thereby promoting healthy competition is critical to improving the quality of education in the State and ensuring that all children have the opportunity to receive a high quality education;

## **STATEMENT OF PURPOSE:**

- 1) allow maximum freedom to parents and independent schools to respond to and, without governmental interference, provide for the educational needs of children, and this act must be liberally construed to achieve that purpose;
- 2) enable taxpayers to make private, voluntary contributions to nonprofit scholarship funding organizations or for direct educational expenses for a qualifying student in order to promote the general welfare;
- 3) provide taxpayers who wish to help parents exercise their basic right to educate their children as they see fit with a means to do so;
- 4) promote the general welfare by expanding educational opportunities for children;
- 5) enable children in this State to achieve a higher level of excellence in their education;
- 6) improve the quality of education in this State, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence.

## **Section 1. The Educational Choice Tax Credit Program Act**

### **Section 2. Definitions.**

(A) "Program" means the Educational Choice Tax Credit Program.

(B) "Eligible student" means a student who: (1) is a member of a household whose total annual income the year before he or she receives an educational scholarship under this program does not exceed an amount equal to two times the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq. Once a

student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years of age. (2) was eligible to attend a public school in the preceding semester or is starting school in [state] for the first time; (3) Resides in [state] while receiving an educational scholarship.

(C) “Low-income eligible student” means a student who qualifies for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.

(D) “Parent” includes a guardian, custodian, or other person with authority to act on behalf of the child.

(E) “Department” means the state Department of Revenue.

(F) “Qualifying school” means either a public school outside of the resident school district, or any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program’s requirements.

(G) “Educational scholarships” means grants to students to cover all or part of the cost of a qualifying student to be educated, including, but not limited to: 1) tuition and fees at either a qualifying private school or a qualifying public school, including education-related transportation expenses; and/or 2) other instruction-related expenses, including but not limited to, online learning services, tutoring services, and instruction-related materials and equipment, subject to the approval of the Department and the scholarship organization. Educational expenses shall not include the cost of a parent’s time expended in the home schooling of his or her child.

(H) “Scholarship Organization” means an organization that complies with the requirements of the state’s school scholarship tax credit program and provides educational scholarships to students.

### **Section 3. Basic Elements of the Educational Choice Tax Credit Program.**

(A) A taxpayer who files a state income tax return and is not a dependent of another taxpayer may claim a credit for a contribution made to a scholarship organization.

(B) In the first five years of the program, the tax credit may be claimed by an individual taxpayer or a married couple filing jointly in an amount equal to the total contributions made to a scholarship organization for educational scholarships during the taxable year for which the credit is claimed. Beginning in the sixth year of the program, the amount of the taxpayer’s tax liability which is eligible for a credit will decrease by 10 percentage points each year until the tenth year of the program and beyond, when the tax credit may be claimed up to 50 percent of the taxpayer’s tax liability.

(C) In the first five years of the program, the tax credit may be claimed by a corporate taxpayer in an amount equal to the total contributions made to a scholarship organization for educational scholarships during the taxable year for which the credit is claimed. Beginning in the sixth year of the program, the amount of the taxpayer’s tax liability which is eligible for a credit will decrease by 10 percentage points each year until the tenth year of the program and beyond, when the tax credit may be claimed up to 50 percent of the taxpayer’s tax liability.

(D) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward a tax credit under this program for three years.

**Section 4. Responsibilities of Scholarship Organizations.**

**(A) Administrative Accountability Standards. All scholarship organizations shall:**

- (1) notify the Department of their intent to provide educational scholarships to students attending qualifying schools;
- (2) demonstrate to the Department that they have been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;
- (3) distribute periodic scholarship payments as checks made out to a student's parent or guardian;
  - (a) tuition payments shall be mailed to the qualifying school where the student is enrolled. The parent or guardian must endorse the check before it can be deposited;
  - (b) payments for other qualifying instruction-related expenses shall be mailed directly to a student's parent or guardian. The parent or guardian must submit receipts for all qualifying instruction-related expenses to the scholarship organization within 90 days;
- (4) provide a Department-approved receipt to taxpayers for contributions made to the organization;
- (5) ensure that at least 90 percent of their revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships;
- (6) spend each year a portion of their expenditures on scholarships for low-income eligible students that is at minimum equal to the percentage of low-income eligible students in the county where the scholarship organization expends the majority of its scholarships;
- (7) ensure that at least X percent of first-time recipients of educational scholarships were not continuously enrolled in a private school during the previous year;
- (8) not grant multiyear scholarships to participating students in one approval process;
- (9) carry forward no more than 25 percent of their revenue from donations from the state fiscal year in which they were received to the following state fiscal year;
- (10) cooperate with the Department to conduct criminal background checks on all of their employees and board members and exclude from employment or governance any individual(s) that might reasonably pose a risk to the appropriate use of contributed funds;
- (11) ensure that scholarships are portable during the school year and can be used at any qualifying school to which the scholarship organization grants scholarships and that accepts the eligible student according to a parent's wishes. If a student moves to a new qualifying school during a school year, the scholarship amount may be prorated.
- (12) publicly report to the Department by June 1 of each year the following information prepared by a certified public accountant regarding their grants in the previous calendar year:
  - (a) the name and address of the student support organization;
  - (b) the total number and total dollar amount of contributions received during the previous calendar year; and

(c) the total number and total dollar amount of educational scholarships awarded during the previous calendar year, the total number and total dollar amount of educational scholarships awarded during the previous year to students qualifying for the federal free and reduced-price lunch program, and the percentage of first-time recipients of educational scholarships who were enrolled in a public school during the previous year.

(13) ensure scholarships are not provided for students to attend a school with paid staff or board members, or relatives thereof, in common with the scholarship organization.

**(B) Financial Accountability Standards.**

(1) All scholarship organizations shall demonstrate their financial accountability by

(a) annually submitting to the Department a financial information report for the organization that complies with uniform financial accounting standards established by the Department and conducted by a certified public accountant; and

(b) having the auditor certify that the report is free of material misstatements.

**Section 5. Program Oversight of Participating Schools.**

(A) Each scholarship organization shall collect written verification from participating, private schools that accept its scholarship students that those schools:

(1) comply with all health and safety laws or codes that apply to private schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981; and

(4) conduct criminal background checks on employees when already required by law and then:

(a) exclude from employment any people not permitted by state law to work in a private school; and

(b) exclude from employment any people that might reasonably pose a threat to the safety of students.

**Section 6. Responsibilities of the Department of Revenue.**

(A) The Department shall adopt rules and procedures consistent with this act as necessary to implement the program.

(B) The Department shall provide a standardized format for a receipt to be issued by a scholarship organization to a taxpayer to indicate the value of a contribution received. The Department shall require a taxpayer to provide a copy of this receipt when claiming the Educational Choice Tax Credit.

(C) The Department shall provide a standardized format for a scholarship organization to report the information in Section 4(A)(10) above.

(D) The Department shall have the authority to conduct either a financial review or audit of a scholarship organization if possessing evidence of fraud.

(E) The Department may bar a scholarship organization from participating in the program if the

Department establishes that the scholarship organization has intentionally and substantially failed to comply with the requirements in Section 4 or Section 5.

(F) If the Department decides to bar a scholarship organization from the program, it shall notify affected scholarship students and their parents of this decision as quickly as possible.

(G) The Department shall allow a taxpayer to divert a prorated amount of state income tax withholdings to a scholarship organization of the taxpayer's choice up to the maximum credit allowed by law, including carry-over credits. The Department shall have the authority to develop a procedure to facilitate this process.

**Section 7. Responsibilities of Qualifying Schools.**

(A) All qualifying schools shall comply with all state laws that apply to private schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a private school.

**Section 8. Effective Date.** The Educational Choice Tax Credit may be first claimed in the next calendar year.

**Sec. 9. 20-A MRSA §2404, sub-§4**, as enacted by PL 2019, c. 253, §1, is repealed.

**Sec. 10. 20-A MRSA §2405, sub-§1**, as enacted by PL 2011, c. 414, §5, is amended to read:

D. The University of Maine System

E. Educational or research-based nonprofit organizations

**Sec. 11. 20-A MRSA §2405, sub-§10**, as enacted by PL 2019, c. 307, §2, is repealed.

**Sec. 12. 20-A MRSA §2408, sub-§2**, as amended by PL 2019, c. 253, §2, is further amended by repealing the 3rd blocked paragraph.

**Sec. 13. 20-A MRSA §2, sub-§1**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**1. State responsibility for public education.** In accordance with the Constitution of Maine, Article VIII, the Legislature shall enact the laws that are necessary to assure that all school administrative units make suitable provisions for the support and maintenance of the public schools and the education of every person within the age limitations prescribed by state statutes who resides in the school administrative unit. It is the intent of the Legislature that every person within the age limitations prescribed by state statutes shall be provided an opportunity to receive the benefits of a free public education.

**Sec. 14. 20-A MRSA §6355, sub-§5** is enacted to read:

**5. Virtual public charter schools and private schools.** The student is enrolled in or attends a virtual public charter school as defined in section 2401, subsection 11 or a private school.

# AN ACT TO GUARANTEE EDUCATIONAL ACCESS RESOURCES FOR STUDENTS (GEARS)

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

Sec. 1. 20-A MRSA §254, sub-§19, as enacted by PL 2015, c. 448, §1, is amended to read:

**19. Designation of school to enroll students.** The commissioner may designate a school administrative unit as the receiving school administrative unit for a student who resides in a school administrative unit that neither maintains a school nor contracts for school privileges pursuant to chapter 115 and is unable to find a school administrative unit willing to enroll the student in one of its schools, upon a written request from the superintendent of the school administrative unit where the student resides setting forth the student's circumstances giving rise to the request.

A. If the commissioner makes a designation under this subsection, the school administrative unit where the student resides shall pay tuition for that student to the receiving school administrative unit as calculated in accordance with this subsection and chapter 219.

B. If a student subject to a designation under this subsection is receiving special education services, the receiving school administrative unit designated by the commissioner under this subsection is responsible for providing a free, appropriate public education to the student, subject to the provisions of this subsection. The receiving school administrative unit shall invite the school administrative unit where the student resides to participate in individualized education program team meetings for the student, but the authorized representative of the receiving school administrative unit shall make the decision on any issue on which consensus is not reached. The school administrative unit where the student resides shall, in addition to tuition payable pursuant to chapter 219, pay to the receiving school administrative unit:

- (1) Special education tuition;
- (2) Any costs not included in the computation of special education tuition directly related to the student's special education program; and
- (3) Any costs associated with due process proceedings in connection with the student's special education program.

C. Once the commissioner makes a designation under this subsection, the student must be enrolled in the receiving school administrative unit. If dissatisfied with the commissioner's decision, the superintendent of the school administrative unit where the student resides or the superintendent of the receiving school administrative unit may, within 10 calendar days of the commissioner's decision, request that the state board review the designation. The state board shall review the commissioner's determinations and communicate with the commissioner, the superintendents and the parent of the student. The state board may approve or disapprove the designation. The state board shall make a decision within 45 calendar days of receiving the request and shall provide to the commissioner, the superintendents and the parent of the student a written decision describing the basis of the state board's determination. The state board's decision is final and binding.

D. Notwithstanding this subsection or any other section of law to the contrary, during an emergency declared by the Governor under 37-B MRSA §742 longer than 30 days, the commissioner of education shall designate a school administrative unit as the receiving school administrative unit for any student upon written request by the student's parent or guardian for a change of enrollment to any other school administrative unit submitted to the superintendent of the school administrative unit where the student resides, and upon approval of the superintendent of the receiving school administrative unit. The superintendent of the receiving school administrative unit may deny a transfer request solely on the basis of the enrollment capacity of the receiving school. If the request is denied by the receiving superintendent, the parent or guardian must be notified of the decision, and the parent or guardian must notify the commissioner to designate another SAU. The commissioner shall make a designation within 10 calendar days of receipt.

(1) The superintendent of the school administrative unit where the student resides, the superintendent of the receiving school administrative unit, or the student's parent or guardian may, within 10 calendar days of the commissioner's decision, request that the state board review the designation. The state board shall review the commissioner's determinations and communicate with the commissioner, the superintendents, and the parent of the student. The state board may approve or disapprove the designation. The state board shall make a decision within 15 calendar days of receiving the request and shall provide to the commissioner, the superintendents and the parent of the student a written decision describing the basis of the state board's determination. Meetings of the state board pursuant to this paragraph may be conducted via remote teleconference or other virtual means. The state board's decision is final and binding.

**Sec. 2. 20-A MRSA §1001, sub-§8**, as amended by PL 2015, c. 448, §2, is further amended to read:

**8. Operate public preschool programs, kindergarten and grades one to 12.** They shall either operate programs in kindergarten and grades one to 12 or otherwise provide for students to participate in those grades as authorized elsewhere in this Title. To the extent the State provides adequate start-up funding, they may operate public preschool programs or provide for students to participate in such programs in accordance with the requirements of this Title. They shall determine which students attend each school, classify them and transfer them from school to school where more than one school is maintained at the same time. If a school administrative unit neither maintains a school nor contracts for school privileges pursuant to chapter 115 and a student who resides in the school administrative unit is unable to enroll in another school administrative unit, the school board shall direct the superintendent of the school administrative unit where the student resides to make a written request to the commissioner to designate a place of enrollment for the student, pursuant to section 254, subsection 19.

D. Notwithstanding this subsection or any other section of law to the contrary, during an emergency declared by the Governor under 37-B MRSA §742 longer than 30 days, the commissioner of education shall designate a school administrative unit as the receiving school administrative unit for any student upon written request by the student's parent or guardian for a change of enrollment to any other school administrative unit submitted to the superintendent of the school administrative unit where the student resides, and upon approval of the superintendent of the receiving school administrative unit. The superintendent of the receiving school administrative unit may deny a transfer request solely on the basis of the enrollment capacity of the receiving school. If the request is denied by the receiving superintendent, the parent or guardian must be notified of the decision, and the parent or guardian

must notify the commissioner to designate another SAU. The commissioner shall make a designation within 10 calendar days of receipt.

(1) The superintendent of the school administrative unit where the student resides, the superintendent of the receiving school administrative unit, or the student's parent or guardian may, within 10 calendar days of the commissioner's decision, request that the state board review the designation. The state board shall review the commissioner's determinations and communicate with the commissioner, the superintendents, and the parent of the student. The state board may approve or disapprove the designation. The state board shall make a decision within 15 calendar days of receiving the request and shall provide to the commissioner, the superintendents and the parent of the student a written decision describing the basis of the state board's determination. Meetings of the state board pursuant to this paragraph may be conducted via remote teleconference or other virtual means. The state board's decision is final and binding.

**Sec. 3. 20-A MRSA §2404, sub-§4**, as enacted by PL 2019, c. 253, §1, is amended to read:

4. Maximum virtual public charter school enrollment. The total enrollment at all virtual public charter schools authorized by the commission may not exceed 1,000 students.

A. This subsection shall be suspended during an emergency declared by the Governor under 37-B MRSA, §742 lasting longer than 30 days.

**Sec. 4. 20-A MRSA §2405, sub-§10**, as enacted by PL 2019, c. 307 §2 is amended to read:

10. Limit on number of public charter schools. No more than 10 public charter schools may operate at any time. Any time the cap is reached, the commissioner may not accept further registrations from the commission or from local school boards and collaboratives of local school boards, except as provided for in subsection 11.

**Sec. 5. 20-A MRSA §2405, sub-§11**, is enacted to read:

11. Notwithstanding sub-§10, during an emergency declared by the Governor under 37-B MRSA, §742 lasting longer than 30 days, the commissioner may accept further registrations under this section from the commission or from local school boards and collaboratives of local school boards. Upon termination of the emergency, the limit contained in subsection 10 shall be raised to reflect the number of public charter schools authorized at the time of termination.

**Sec. 6. 20-A MRSA §2408, sub-§2**, as amended by PL 2019, c. 253, §2, is further amended by amending the 3rd blocked paragraph to read:

A virtual public charter school authorized by the commission may not expand to serve a grade level not included in the school's initial charter contract or, for a school whose charter was renewed prior to November 1, 2019, the renewed charter contract, unless during an emergency declared by the Governor under 37-B MRSA, §742 lasting longer than 30 days.

# RESOLVE TO ENACT THE MAINE EDUCATION BLUEPRINT

**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 people of Maine have right to be involved their child's education,

WHEREAS the Maine Education Association has had an undue influence over our children to the detriment of child achievement outcomes,

WHEREAS outside special interests have negatively impacted the education of Maine's future workforce,

WHEREAS, our children's test scores have steadily declined and need to be addressed immediately,

WHEREAS, it is the duty of the Maine's elected officials to ensure that Maine delivers a fair and unbiased education,

WHEREAS, the children of Maine deserve the best education, no matter the zip code they reside,

Be it Resolved, that the Maine Legislature directs the Maine Department of Education to prepare and report legislation to amend Title 20-A Sec. 1 – Sec. 20118 with the following:

## **Section 1 - Workforce Training Act**

- a. Alternative Maine Workforce Training Act
  - i. A grant to employers for each person employed undergoing a training program.
  - ii. To provide other pathways for young persons to develop skills in the workforce outside of the formal education system. Each employee undergoing a formal, paid, skills training at an employer makes the employer eligible for a grant up to \$10,000. This is to encourage the creation of alternative education backgrounds.

## **Section 2 - Stop Critical Race Theory in Education Act**

- iii. A bill to prohibit Critical Race Theory and other similar concepts relating to education in the State of Maine. This bill prevents the use of and reliance upon educational curricula and/or training programs which advocate for or encourage discrimination based upon race and sex. To prohibit, with some exceptions, local boards of education from promoting or using educational curricula which advocates for or encourages the discrimination based upon race and sex. Furthermore, to prohibit public employees from using any school facilities for the purposes of political organizing during working hours as part of or outside of classroom instruction.
- iv. Divisive non-permissible topics:
- v. (1) 'Divisive concepts' means any of the following concepts, including views espousing such concepts:
  - vi. One race is inherently superior to another race;
  - vii. The United States of America is fundamentally racist;

- viii. An individual, by virtue of his or her race, is inherently or consciously racist or oppressive toward individuals of other races;
- ix. An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race;
- x. An individual's moral character is inherently determined by his or her race;
- xi. Any racial or ethnic group has revanchist/irredentist/particularist claims against the United States or another racial or ethnic group by virtue of their race.
- xii. An individual, solely by virtue of his or her race, bears individual responsibility for actions committed in the past by other individuals of the same race;
- xiii. An individual, by virtue of his or her race absent any connection to studying particular moral evils committed by historical persons of the same race as part of classroom learning, should feel anguish, guilt, or any other form of psychological distress;
- xiv. Performance-based advancement or the recognition and appreciation of character traits such as a hard work ethic are racist or have been advocated for by individuals of a particular race to oppress individuals of another race; or any other form of race scapegoating or race stereotyping
- xv. (2) "Espousing personal political beliefs" means an individual, while conducting official duties within a school or during normal working hours, that involves interaction with students or other attendees, encouraging or attempting to persuade or indoctrinate a student, attendee, school community member or other school personnel or agree or advocate for such individual's personal beliefs about divisive topics or current affairs.
- xvi. (3) "Race scapegoating" means assigning fault or blame to a race or to an individual of a particular race because of his or her race. Such term includes, but is not limited to, any claim that an individual of a particular race, consciously or by virtue of his or her race, is inherently racist or is inherently inclined to oppress individuals of other races.
- xvii. (4) "Race stereotyping" means ascribing character traits, values, moral or ethical codes, status, or beliefs to an individual because of his or her race.
- xviii. (a) Nothing in this section shall be construed or applied to:
  1. (1) Inhibit or violate the First Amendment rights protected by the Constitutions of Maine and the United States of America;
  2. (2) Infringe upon the intellectual faculties of students and employees of local boards of education, local school systems, or other schools;
  3. (3) Prohibit a local board of education, local school system, or other school from promoting concepts such as tolerance, mutual respect, cultural sensitivity, or cultural competency; provided, however, that such efforts do not conflict with the requirements of this section and other applicable laws;
  4. (4) Prohibit a school administrator, teacher, other school personnel, or an individual facilitating a training program from responding in a professionally and academically appropriate manner and

without espousing personal political beliefs to questions regarding specific divisive concepts raised by students, school community members, or participants in a training program;

5. (5) Prohibit the discussion of divisive concepts, as part of a larger course of instruction, in a professionally and academically appropriate manner and without espousing personal political beliefs;

6. (6) Prohibit the full and rigorous implementation of curricula, or elements of a curriculum, that are required as part of advanced placement, international baccalaureate, or dual enrollment coursework; provided, however, that such implementation is done in a professionally and academically appropriate manner and without espousing personal political beliefs;

7. (7) Prohibit the use of curricula that addresses the topics of slavery, racial oppression, racial segregation, or racial discrimination, including topics relating to the enactment and enforcement of laws resulting in racial oppression, segregation, and discrimination in a professionally and academically appropriate manner and without espousing personal political beliefs;

8. (8) Create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against a local board of education, local school system, or other school, or the departments, agencies, entities, officers, employees, agents, or any other personnel affiliated with such local board of education, local school system, or other school; or

9. (9) Prohibit a state or federal court or agency of competent jurisdiction from ordering training or other remedial action that discusses divisive concepts due to a finding of discrimination, including discrimination based on race.

### **Section 3 - Education Nondiscrimination Licensing Act**

#### xix. SECTION A [Education Licensure Requirements]

xx. No education licensure requirement for teachers and administrators adopted by the Maine State Board of Education may train, require, or reward educators to practice, adopt, favor, or affirm a belief in:

xxi. 1. any discriminatory concepts or any pedagogies that require assent to any of these discriminatory concepts;

xxii. 2. the so-called systemic nature of racism, or like ideas, or any pedagogies that require assent to any of these concepts;

xxiii. 3. the so-called multiplicity or fluidity of gender identities, or like ideas, or any pedagogies that require assent to any of these concepts;

xxiv. 4. concepts such as allyship, diversity, social justice, sustainability, systemic racism, gender identity, equity, or inclusion, or to any ideology or pedagogy that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, or prescribes advantages, disadvantages, or segregation based upon identity group membership, or to any other ideology, pedagogy, principle, concept, or formulation that requires commitment to any belief or policy that is the subject of political controversy; or

xxv. 5. service-learning or any other pedagogy that involves social or public policy advocacy.

xxvi. SECTION B [Education Licensure and Professional Development Materials]

xxvii. The Maine State Board of Education may not provide, endorse, link to, or allow any role in education licensure or professional development to standards, curricula, lesson plans, textbooks, trainings, instructional materials, instructional practices, or any other materials that serve to train, require, or reward educators to practice, adopt, favor, or affirm a belief in:

xxviii. 1. any discriminatory concepts, or in any pedagogies that require assent to any of these discriminatory concepts;

xxix. 2. the so-called systemic nature of racism, or like ideas, or any pedagogies that require assent to any of these concepts;

xxx. 3. the so-called multiplicity or fluidity of gender identities, or like ideas, or any pedagogies that require assent to any of these concepts;

xxxi. 4. concepts such as allyship, diversity, social justice, sustainability, systemic racism, gender identity, equity, or inclusion, or to any ideology or pedagogy that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, or prescribes advantages, disadvantages, or segregation based upon identity group membership,

or to any other ideology, pedagogy, principle, concept, or formulation that requires commitment to any belief or policy that is the subject of political controversy; or

xxxii. 5. service-learning or any other pedagogy that involves social or public policy advocacy.

xxxiii. SECTION C [Education Licensure and Professional Development Materials—Transparency]

xxxiv. 1. The Maine State Board of Education shall make available to the public on its website all education licensure and professional development materials, including standards, curricula, lesson plans, assessments, textbooks, teacher training and instructional materials, and instructional practices. The information posted on the Maine State Board of Education's website must be accessible from the Maine State Board of Education website home page by use of not more than three links; searchable by keywords and phrases; and accessible to the public without requiring registration or use of a user name, a password, or another user identification.

xxxv. 2. The Maine State Board of Education shall not contract with any vendor for education licensure or professional development proprietary materials that are prohibited from public review.

xxxvi. 3. The Maine State Board of Education shall not use education licensure or professional development proprietary materials that are protected from public review.

xxxvii. SECTION D [External Funding]

xxxviii. The Maine State Board of Education may not apply for or accept funding from any public or private institution, or from any federal program, that restricts or advantages funding to recipients that practice, adopt, favor, or affirm a belief in the following concepts:

xxxix. 1. any discriminatory concepts, or in any pedagogies that require assent to any of these discriminatory concepts;

xl. 2. the systemic nature of racism, or like ideas or any pedagogies that require assent to any

of these concepts;

xli. 3. the so-called multiplicity or fluidity of gender identities or like ideas or any pedagogies that require assent to any of these concepts;

xlii. 4. concepts such as allyship, diversity, social justice, sustainability, systemic racism, gender identity, equity, or inclusion, or to any ideology or pedagogy that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, or prescribes advantages, disadvantages, or segregation based upon identity group membership, or to any other ideology, pedagogy, principle, concept, or formulation that requires commitment to any belief or policy that is the subject of political controversy; or

xliii. 5. service-learning, or any other pedagogy that involves social or public policy advocacy.

xliv. SECTION E [External Funding of Education Licensure and Professional Development Materials]

xlvi. The Maine State Board of Education may not accept external funding for standards, curricula, lesson plans, textbooks, teacher training, instructional materials, instructional practices, or any other materials that play a role in education licensure or professional development.

xlvii. SECTION F [Education Preparation Program Approval]

xlvi. 1. The Maine State Board of Education may not approve, or continue to approve, an education preparation program for teachers or administrators that trains, requires, or rewards any student to practice, adopt, favor, or affirm a belief in:

xlvi. a. any discriminatory concepts, or in any pedagogies that require assent to any of these discriminatory concepts;

xlv. b. the systemic nature of racism, or like ideas or any pedagogies that require assent to any of these concepts;

l. c. the so-called multiplicity or fluidity of gender identities or like ideas, or any pedagogies that require assent to any of these concepts;

li. d. concepts such as allyship, diversity, social justice, sustainability, systemic racism, gender identity, equity, or inclusion, or to any ideology or pedagogy that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, or prescribes advantages, disadvantages, or segregation based upon identity group membership, or to any other ideology, pedagogy, principle, concept, or formulation that requires commitment to any belief or policy that is the subject of political controversy; or

lii. e. service-learning, or any other pedagogy that involves social or public policy advocacy.

liii. 2. All education preparation programs approved by the Maine State Board of Education, as a condition of their continuing approval, must certify annually to the State Board of Education that they have complied with the requirements in Subsection 1.

liv. SECTION G [External Standards]

lv. The Maine State Board of Education may not align with, drawn upon, or incorporate in any fashion any material from any external standard that trains, requires, or rewards any student to practice, adopt, favor, or affirm a belief in:

lvi. 1. any discriminatory concepts or in any pedagogies that require assent to any of these discriminatory concepts;

lvii. 2. the so-called systemic nature of racism or like ideas, or any pedagogies that require assent to any of these concepts;

lviii. 3. the so-called multiplicity or fluidity of gender identities or like ideas, or any pedagogies that require assent to any of these concepts;

lix. 4. concepts such as allyship, diversity, social justice, sustainability, systemic racism, gender identity, equity, or inclusion, or to any ideology or pedagogy that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, or prescribes advantages, disadvantages, or segregation based upon identity group membership, or to any other ideology, pedagogy, principle, concept, or formulation that requires commitment to any belief or policy that is the subject of political controversy; or

lx. 5. service-learning, or any other pedagogy that involves social or public policy advocacy.

lxi. SECTION H [Nondiscrimination]

lxii. 1. No education licensure requirement for teachers and administrators adopted by the Maine State Board of Education may provide any advantage or disadvantage on the basis of membership in groups defined by characteristics such as race, ethnicity, religion, sex, sexual orientation, gender identity, or gender expression.

lxiii. 2. The Maine State Board of Education shall post on its website an annual report of statistics on the academic qualifications of individuals who have applied for education licensure, and of individuals who have received education licensure, including undergraduate grade point averages and scores on standardized tests, differentiated by race and sex. These statistics shall include information correlating students' academic qualifications and passage rates, differentiated by race and sex. The information posted on the Maine State Board of Education's website must be accessible from the website home page by use of not more than three links; searchable by keywords and phrases; and accessible to the public without requiring registration or use of a user name, a password, or another user identification.

lxiv. SECTION I [Special Education]

lxv. No section of this bill, and particularly not the bar on inculcating "inclusion" ideology, shall bar instruction in special education that focuses on when it is appropriate to include special education students in regular education and when it is appropriate to provide them separate instruction.

lxvi. SECTION J [Exceptions]

lxvii. No section of this law shall prevent educational personnel from classifying students or educational personnel by enrollment status, citizenship status, or biological sex.

lxviii. SECTION K [Definitions]

lxix. 1. “Discriminatory concepts” means any of the following concepts:

lxx. a. one race or sex is inherently superior to another race or sex;

lxxi. b. an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

lxxii. c. an individual should be discriminated against or receive adverse treatment solely or partly because of the individual’s race;

lxxiii. d. members of one race cannot or should not attempt to treat others without respect to race;

lxxiv. e. an individual’s moral standing or worth is necessarily determined by his or her race or sex;

lxxv. f. Any racial or ethnic group has revanchist/irredentist/particularist claims against the United States or another racial or ethnic group by virtue of their race.

lxxvi. g. an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

lxxvii. h. an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex;

lxxviii. i. meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;

lxxix. j. fault, blame, or bias should be assigned to a race or sex or to members of a race or sex because of their race or sex; or

lxxx. k. that the advent of slavery in the territory that is now the United States constituted the true founding of the United States; or

lxxxii. l. that, with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality.

lxxxii. 2. “Service learning” means a method— (A) under which students or participants learn and develop through active participation in thoughtfully organized service that— (i) is conducted in and meets the needs of a community; (ii) is coordinated with an elementary school, secondary school, institution of higher education, or community service program, and with the community; and (iii) helps foster civic responsibility; and (B) that— (i) is integrated into and enhances the academic curriculum of the students, or the educational components of the community service program in which the participants are enrolled; and (ii) provides structured time for the students or participants to reflect on the service experience.

lxxxiii. SECTION L [Separability]

lxxxiv. If any provision of this chapter, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this chapter and the application of its provisions to any other person or circumstance shall not be affected thereby.

#### **Section 4. Curriculum Transparency Act**

- b. Bill text:
- i. The school board for each school district shall adopt policies and procedures to ensure the approved and adopted curriculum presented are properly implemented in the classroom. The choice of academic class offerings and curriculum materials:
    - ii. (1) Shall not be based on surveys, inventories, or other evaluations, analyses, or assessments of:
      - iii. (a) Student, family, or community immutable and other identifying characteristics including, but not limited to, race, binary sex, gender choices, religion, disabilities, or income;
      - iv. (b) Psychological or social emotional data; or
      - v. (c) Trauma and other psychological and emotional problems; and
    - vi. (2) Shall ensure schools meet the purpose of education as provided in the Maine Constitution and disseminate the knowledge and intelligence needed to ensure the rights and liberties of United States citizens in Maine.
      - vii. At least three to five years of data showing percentages of students by grade level, subject, and percentage level of proficiency based on state assessment scores shall be posted in the same section as the curricula on the district's website and shall also be available for inspection at each school within the district.
      - viii.1. All administrator, teacher, and staff professional development and instructional programs offered to schools that are paid for with state funds, whether offered directly by the department of elementary and secondary education, another state agency, or by a third-party contractor, shall be fully transparent and available to the public as follows:
        - ix. (1) All program materials, videos, links, and resources shall be publicly available at no charge on the department's website;
        - x. (2) All program offerings shall be open for public attendance. All program offerings shall be listed in one location on the department's website by date and show the title of the program, program description, location, and time. Programs shall be publicly posted at least thirty days in advance, with exceptions applying only when the program is added with fewer than thirty days' notice based on an emergency as detailed by the school. Any resident of the state shall be allowed access in some manner to the program. Audio and video recordings of these programs shall be required and accessible to the public free of charge for at least three years after the event date. If a program recording was not made or maintained, the program date, name, and description shall still be listed on the website for three years after the event date has passed with a clear explanation as to why a recording is not available;
        - xi. (3) Lists by school district showing date of attendance, name and position of district attendee, program name, and description shall be provided by request and free of charge to Maine residents for the prior three years;
        - xii. (4) No on-site program shall be provided by a school prior to the local school

board approving and adopting the state program; and

xiii. (5) Lists of local school boards that have approved the state program shall be provided on the department's website.

xiv. 2. For programs offered to schools by third-party contractors, the department shall maintain data and information on the department's website related to those programs, but not limited to, a breakdown by school district for each Missouri state-funded program showing the amount paid to the third-party contractor by year and by program, detailing the public funds spent on categories of program promotion, development, training, local implementation, and other miscellaneous costs such as travel and physical materials for the prior three years.

xv. 1. An online portal shall be created that will act as the single source for all student information and data that can be accessed by third party contractors.

xvi. 2. The portal shall consist of an easy-to-search database including, but not limited to the following:

xvii. (1) All curricula taught by the school district;

xviii. (2) All source materials used to develop a district's curricula;

xix. (3) All documents used by a school district in the professional development of the district's faculty and staff including, but not limited to, administrators, teachers, counselors, and classroom support staff;

xx. (4) All source materials used to develop the documents used by a school district in its professional development materials

xxi. (5) All speakers and guests used by a school district in its professional development activities; and

xxii. (6) The costs associated with speakers and guests used by a school district in its professional development activities.

## **Section 5. - THE EDUCATION SAVINGS ACCOUNT ACT**

**Section 1.** {The Education Savings Account Act}

**Section 2.** {Definitions}

(A) "Program" means The Education Savings Account program created in this subchapter.

(B) "Eligible student" means any student who is a legal resident of [state] and is otherwise eligible to enroll in a public elementary or secondary school [i]

(C) "Parent" means a resident of this state who is a parent, guardian, custodian, or other person with the authority to act on behalf of the child.

(D) "Department" means the state Department of Public Instruction or an organization chosen by the state. [ii]

(E) "Resident school district" means the public school district in which the student resides.

(F) "Qualifying school" means any private school that provides education to elementary and/or

secondary students and has notified the Department of its intention to participate in the program and comply with the program's requirements. [iii]

(G) "Private tutoring" means tutoring services provided by a tutor who is a teacher licensed in any state, who has taught at an eligible postsecondary institution, who is a subject matter expert, or who is otherwise approved by the Department.

(H) "Eligible postsecondary institution" means a community college, a technical college, an accredited university or an accredited private postsecondary institution.

### **Section 3. {Basic Elements of The Education Savings Account Act}**

(A) Any parent of an eligible student shall qualify for the state to make a grant to their child's education savings account if the parent sign an agreement promising:

- 1) To provide an education for the eligible student in at least the subjects of reading, grammar, mathematics, social studies, and science;
- 2) Not to enroll their eligible student in a district or charter school other than for contracted services pursuant to subsection (C)(11) of this section.

(B) The state shall deposit into an Education Savings Account the dollar amount the resident school district would have received to serve and educate the eligible student from state and local sources had the student enrolled there. A participating student shall be counted in the enrollment figures for his or her resident school district. The funds needed for a scholarship shall be subtracted from the state school aid payable to the student's resident school district.;

(C) Parents participating in the Education Savings Account program shall agree to use the funds deposited in their eligible student's accounts for the following qualifying expenses to educate the eligible student:

- (1) Tuition and fees at a qualifying school.
- (2) Textbooks or uniforms required by a qualifying school.
- (3) Payment for private tutoring.
- (4) Payment for purchase of curriculum, any supplemental materials required by the curriculum, and instructional materials.
- (5) Tuition or fees for a non-public online learning program.
- (6) Fees for national norm-referenced examinations, Advanced Placement examinations or similar courses, and any examinations related to college or university admission, and career and technical education examination fees.
- (7) Contributions of up to \$2000 annually to the eligible student's qualified tuition program established pursuant to 26 USC Section 530 or 11 USC Section 529.
- (8) Educational services for pupils with disabilities students with special needs from a licensed or accredited practitioner or provider.
- (9) Tuition and fees at an eligible postsecondary institution.
- (10) Tuition, fees, and instructional materials at a career and technical education provider.
- (11) Contracted educational services provided at a public school or public school district.
- (12) Textbooks required for college or university courses.
- (13) Fees for account management by private financial management firms approved by the

Department.

(14) Transportation up to \$1,000 per fiscal year. [iv]

(15) Any other valid educational expenses approved by the Department.

(D) A qualifying school, private tutor, eligible postsecondary institution or other educational provider may not refund, rebate, or share a student's grant with a parent or the student in any manner. The funds in an Education Saving Account may only be used for educational purposes.

(E) Parents will be allowed to make payments for the costs of educational programs and services not covered by the funds in their accounts.

**Section 4.** {Administration of the Education Savings Account Act.}

(A) The Department will qualify private financial management firms or similar private entities to manage Education Savings Accounts.

(B) The Department will have the authority to conduct or contract for the auditing of accounts, and will at a minimum conduct random audits of accounts on an annual basis. The Department will have the authority to make any parent of an eligible student ineligible for the Education Savings Account program in the event of substantial misuse of the funds in the account.

(C) The Department will have the authority to refer cases of substantial misuse of funds to law enforcement agencies for investigation if evidence of fraudulent use of an account is obtained.

(D) The Department shall provide parents of participating students with a written explanation of the allowable uses of education savings accounts, the responsibilities of parents and the duties of the Department.

(E) The Department may deduct an amount from the grants to education savings accounts to cover the costs of overseeing the accounts and administering the program up to a limit of X percent. [v]

(F) The Department shall establish reasonable fees for private financial management firms participating in the program based upon market rates.

(G) The Department shall make payments to eligible students' Education Savings Accounts on a quarterly basis.

**Section 5.** {Accountability Standards for Qualifying schools.}

(A) Administrative Accountability Standards. To ensure that students are treated fairly and kept safe, all participating private schools shall:

(1) Comply with all health and safety laws or codes that apply to private schools;

(2) Hold a valid occupancy permit if required by their municipality;

(3) Certify that they comply with the nondiscrimination policies set forth in 42 USC 1981; [vi] and

(4) Conduct criminal background checks on employees. The qualifying school then shall:

(a) Exclude from employment any people not permitted by state law to work in a private school; and

(b) Exclude from employment any people that might reasonably pose a threat to the safety of students. [vii]

(B) Financial Accountability Standards. To ensure that funds are spent appropriately, all qualifying schools shall:

(1) Provide parents with a receipt for all qualifying expenses at the school.

(2) Demonstrate their financial viability by showing they can repay any funds that might be provided from Education Savings Accounts, if they are to receive \$50,000 or more during the school year, by:

(a) Filing with the Department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the funds from Education Savings Accounts expected to be paid during the school year from students admitted at the qualifying school; or

(b) Filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the funds from Education Savings Accounts expected to be paid during the school year to students admitted to the qualifying school. [viii]

(C) Academic Accountability Standards. In order to allow parents and taxpayers to measure the achievements of the program:

(1) Parents shall ensure that:[ix]

(a) All participating students in grades that require testing under the state's accountability testing laws for public schools shall take either the state achievement tests or nationally norm-referenced tests that measure learning gains in math and language arts, and may provide for value-added assessment;

(b) The results of these tests are provided to the state or an organization chosen by the state on an annual basis,[x] beginning with the first year of testing;

(c) The student information is reported in a way that would allow the state to aggregate data by grade level, gender, family income level, and race; and

(d) The state or an organization chosen by the state will be informed of the eligible student's graduation from high school.

(2) The state or an organization chosen by the state shall:

(a) Ensure compliance with all student privacy laws;

(b) Collect all test results;

(c) Provide the test results, associated learning gains and graduation rates to the public via a state Web site after the third year of test and graduation-related data collection.[xi] The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race;[xii]

(d) Provide rates for high school graduation, college attendance and college graduation for participating students to the public via a state Web site after the third year of test and test-related data collection; and

(e) Administer an annual parental satisfaction survey that shall ask parents of students receiving education savings accounts to express:

(i) Their satisfaction with the program; and

(ii) Their opinions on other topics, items, or issues that the state finds would elicit information about the effectiveness of education savings accounts program and the number of years their child has participated in the program.

(D) For students with special needs who are awarded a grant [under this program] participation in the program is a parental placement of their child under 20 USC 1412 (a) (10) of the Individuals with Disabilities Education Act (IDEA).

(E) Qualifying School Autonomy. A participating private school is autonomous and not an agent of the state or federal government and therefore

(1) The Department or any other state agency may not in any way regulate the educational program of a participating private school or education provider that accepts funds from an education savings account;

(2) The creation of The Education Savings Account Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools or education providers beyond those necessary to enforce the requirements of the program; and

(3) Participating private schools and education providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

**Section 6.** {Responsibilities of the Department of Public Instruction}

(A) The Department shall ensure that eligible students and their parents are informed annually of which schools will be participating in the Education Savings Account Program. Special attention shall be paid to ensuring that lower-income families are made aware of the program and their options.

(B) The Department shall create a standard form that parents of eligible students can submit to establish their student's eligibility for the Education Savings Account Program. The Department shall ensure that the application is readily available to interested families and can be submitted through various sources, including the Internet.

(C) The Department may bar a qualifying school or education provider from the Education Savings Account Program if the Department establishes that the qualifying school or education provider has:

(1) Routinely failed to comply with the accountability standards established in Section 5; [xiii]  
or

(2) Failed to provide the eligible student with the educational services funded by the Education Savings Account.

(D) If the Department decides to bar a qualifying school or education provider from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

(E) The Department shall adopt rules and procedures as necessary for the administration of the Education Savings Account Program.

**Section 7.** {Responsibilities of Resident School Districts.}

(A) The resident school district shall provide a qualifying school or education provider that has admitted an eligible student under this program with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232 g).

(B) The resident school district shall provide transportation for an eligible student to and from the qualifying school or education provider under the same conditions as the resident school district is required to provide transportation for other resident students to private schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

**Section 8.** {Effective Date.} The Education Savings Account Program will be in effect beginning with the fall semester of the next school year.

# AN ACT TO RESTORE WORKPLACE FREEDOM

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

**Sec. 1. 26 MRSA §963, sub-§2**, as enacted by PL 2007, c. 415, §2, is amended to read:

**2. Not join a union and not pay union dues.** Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, ~~except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities~~ and refrain from paying any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization or to a 3rd party or charity in lieu of payment to a labor organization.

3. The right to join or participate in the activities of organizations for the purposes of representation and collective bargaining shall be recertified on a biennial basis based on a majority vote of the organizations' members.

**Sec. 2. 26 MRSA §979-B, sub-§2**, as enacted by PL 2007, c. 415, §6, is amended to read:

**2. Not join a union and not pay union dues.** Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, ~~except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities~~ and refrain from paying any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization or to a 3rd party or charity in lieu of payment to a labor organization.

3. The right to join or participate in the activities of organizations for the purposes of representation and collective bargaining shall be recertified on a biennial basis based on a majority vote of the organizations' members.

**Sec. 3. 26 MRSA §1023, sub-§2**, as enacted by PL 2007, c. 415, §10, is amended to read:

**2. Not join a union and not pay union dues.** Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, ~~except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities~~ and refrain from paying any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization or to a 3rd party or charity in lieu of payment to a labor organization.

3. The right to join or participate in the activities of organizations for the purposes of representation and collective bargaining shall be recertified on a biennial basis based on a majority vote of the organizations' members.

Sec. 4. 26 MRSA §1283, sub-§2, as enacted by PL 2007, c. 415, §15, is amended to read:

**2. Not join a union and not pay union dues.** Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, ~~except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities~~ and refrain from paying any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization or to a 3rd party or charity in lieu of payment to a labor organization.

**3. The right to join or participate in the activities of organizations for the purposes of representation and collective bargaining shall be recertified on a biennial basis based on a majority vote of the organizations' members.**

Sec. 5. 26 MRSA c. 47 is enacted to read:

## **CHAPTER 47**

### **RIGHT TO REFRAIN FROM JOINING A UNION**

#### **§3701. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Employer.** "Employer" means a person, firm, association, corporation, public employer, public school employer, public college, public university, public institution or public education agency.

**2. Labor organization.** "Labor organization" means an organization, agency or employee representation committee or union that exists for the purpose, in whole or in part, of negotiating or bargaining with employers on behalf of employees concerning wages, rates of pay, hours of work, other conditions of employment or other forms of compensation.

#### **§3702. Right to refrain**

Notwithstanding any law to the contrary, a person may not be required, as a condition of employment or continuation of employment, to:

**1. Member.** Become or remain a member of a labor organization;

**2. Dues.** Pay any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization; or

**3. Payment to 3rd party.** Pay to a charity or other 3rd party, in lieu of payments specified in subsection 2, any amount equivalent to or a pro rata portion of dues, fees, assessments or other charges required of members of a labor organization.

#### **§3703. Agreements in violation**

An agreement, understanding or practice, written or oral, implied or expressed, between a labor organization and an employer that violates a provision of this chapter is unlawful, void and of no legal effect.

### **§3704. Penalty**

A person who directly or indirectly violates a provision of this chapter commits a Class D crime.

### **§3705. Injunctive relief**

A person injured as a result of another person's violation or threatened violation of a provision of this chapter is entitled to injunctive relief against the person violating or threatening to violate this chapter.

### **§3706. Damages**

A person injured as a result of a violation or threatened violation of a provision of this chapter may recover all damages, including court costs and reasonable attorney's fees, resulting from the violation or threatened violation. A recovery of damages under this section is independent of and in addition to the penalty provided in section 3704.

### **§3707. Duty to investigate and enforce**

The Attorney General shall investigate complaints of a violation or threatened violation of this chapter and shall prosecute any person violating any of its provisions. The Attorney General shall use all means available to ensure effective enforcement of this chapter.

### **§3708. Jurisdiction**

The Superior Court has jurisdiction to hear and decide prosecutions of all offenses under this chapter.

### **§3709. Exceptions**

This chapter does not apply to the following:

1. **Federal Railway Labor Act.** Employers and employees covered by the federal Railway Labor Act, 45 United States Code, Chapter 8;
2. **Federal employers and employees.** Federal employers and employees;
3. **Federal enclaves.** Employers and employees on federal enclaves; or
4. **Federal preemption or conflict.** Federal law when the provisions of this chapter conflict with or are otherwise preempted by that federal law.

# AN ACT TO PROMOTE SELF-SUFFICIENCY

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

**Sec. 1. 22 MRSA §4301, sub-§3**, as amended by PL 2013, c. 368, Pt. 00, §4, is further amended to read:

**3. Eligible person.** "Eligible person" means a person who is qualified to receive general assistance from a municipality according to standards of eligibility determined by the municipal officers whether or not that person has applied for general assistance. "Eligible person" does not include a person who is a fugitive from justice as defined in Title 15, section 201, subsection 4. "Eligible person" does not include a person who is ineligible to receive benefits under the Temporary Assistance for Needy Families program pursuant to section 3762, subsection 18.

**Sec. 2. 22 MRSA §4309, sub-§5** is enacted to read:

**5. Durational limit on benefits.** Notwithstanding any provision of law to the contrary, an eligible person who is capable of working and who does not have any dependents may not receive general assistance benefits for more than 275 days every 5 years.

**Sec. 3. 22 MRSA §3762, sub-§3, ¶B**, as amended by PL 2013, c. 368, Pt. 00, §3 and Pt. UUU, §1 and affected by §2, is further amended to read:

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 noncitizens 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 criteria 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;

(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 substantiated 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 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;

(d) For a recipient employed 40 or more hours per week and who meets work participation requirements as defined in federal TANF rules, 100% of the gross earned income for the first full month of employment and the next consecutive month of employment, 75% of the gross earned income for the next 6 consecutive months of employment and 50% of the gross earned income for each additional consecutive month of employment thereafter; and

(e) For a recipient employed less than 40 hours per week and who meets work participation requirements as defined in federal TANF rules, 100% of the gross earned income for the first full month of employment, 75% of the gross earned income for the next 6 consecutive months

of employment and 50% of the gross earned income for each additional consecutive month of employment thereafter.

The department may disregard 100% of earnings for a recipient under this subparagraph only one time in a 12-month period;

(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. 4. 22 MRSA §3762, sub-§8, ¶B**, as amended by PL 2013, c. 97, §1, is further amended to read:

B. The department shall provide limited transitional transportation benefits to meet employment-related costs to ASPIRE-TANF program participants who lose eligibility for TANF assistance due to employment. The department may also make transitional transportation benefits available to families in which one or both adults are working and who, although they remain financially eligible for TANF benefits, request that their benefits be terminated. Benefits may be provided for up to 1218 months following loss of TANF eligibility. The department may adopt rules that impose a weekly limit on available transitional transportation benefits and that require a contribution from each participant toward the cost of transportation.

**Sec. 3. 22 MRSA §3769-D** is enacted to read:

**§ 3769-D. Temporary Assistance for Needy Families block grant; family development accounts**

In fiscal year 2016-17 and annually thereafter, the Department of Health and Human Services may use \$500,000 in funds provided under the Temporary Assistance for Needy Families block grant to promote financial literacy and healthy saving habits of families with income less than 200% of the federal poverty guidelines through the placement of funds in family development accounts established pursuant to Title 10, chapter 110, subchapter 4-A.

**Sec. 4. 22 MRSA §3104, sub-§8-A** is enacted to read:

**8-A. Residency requirement.** An applicant for assistance under the statewide food supplement program must prove to the department that the applicant has been physically present for 180 days or longer in the State prior to applying for the statewide food supplement program. Acceptable forms of proof of residency must include the applicant's name and the address of the applicant's residence or domicile. A post office box or mail drop address is not sufficient. Acceptable proof of residency includes, but is not limited to:

- A. A tax return, W-2 form or paycheck stub;
- B. A utility bill or a letter from a utility company showing application for service;
- C. A contract to which the applicant is a party; or
- D. A document issued by a governmental entity.

**Sec. 5. 22 MRSA §3104-A, sub-§3**, as amended by PL 2009, c. 291, §3, is further amended to read:

**3. Administration.** The department shall provide assistance under this section to eligible households on a monthly basis through an electronic benefit transfer system. For the purpose of this subsection, "eligible household" means a household that has been physically present for 180 days or longer in the State prior to applying for the statewide food supplement program. Acceptable forms of proof of residency must include the applicant's name and the address of the applicant's residence or domicile. A post office box or mail drop address is not sufficient. Acceptable proof of residency includes, but is not limited to:

- A. A tax return, W-2 form or paycheck stub;
- B. A utility bill or a letter from a utility company showing application for service;
- C. A contract to which the applicant is a party; or
- D. A document issued by a governmental entity.

**Sec. 6. 22 MRSA §3173, 8th ¶**, as repealed and replaced by PL 1979, c. 127, §144, is amended to read:

No ~~A~~ time standard established by this section shall ~~may not~~ be used as a waiting period before granting aid, or as a basis for denial of an application or for terminating assistance.

**Sec. 7. 22 MRSA §3173**, as amended by PL 1997, c. 676, §1 and PL 2003, c. 689, Pt. B, §6, is further amended by adding at the end a new paragraph to read:

An applicant for assistance under the MaineCare program must prove to the department that the applicant has been physically present for 180 days or longer in the State prior to applying for MaineCare. Acceptable forms of proof of residency must include the applicant's name and the address of the applicant's residence or domicile. A post office box or mail drop address is not sufficient. Acceptable proof of residency includes, but is not limited to, a tax return, W-2 form or paycheck stub; a utility bill or a letter from a utility company showing application for service; a contract to which the applicant is a party; or a document issued by a governmental entity.

**Sec. 8. 22 MRSA §3763**, sub-§11 is enacted to read:

**11. Residency requirement.** An applicant for assistance under TANF must prove to the department that the applicant has been physically present for 180 days or longer in the State prior to applying for TANF. Acceptable forms of proof of residency must include the applicant's name and the address of the applicant's residence or domicile. A post office box or mail drop address is not sufficient. Acceptable proof of residency includes, but is not limited to:

A. A tax return, W-2 form or paycheck stub;

B. A utility bill or a letter from a utility company showing application for service;

C. A contract to which the applicant is a party; or D. A document issued by a governmental entity.

**Sec. 9. 22 MRSA §4307, sub-§2, ¶A**, as enacted by PL 1987, c. 349, Pt. H, §15, is amended to read:

A. A resident of the municipality. For the purposes of this section, a "resident" means a person who is has been physically present for 180 days or longer in a municipality with the intention of remaining in that municipality to maintain or establish a home and who has no other residence; and.

**Sec. 10. 22 MRSA §4307**, sub-§2, ¶B, as enacted by PL 1987, c. 349, Pt. H, §15, is repealed.

**Sec. 11. 22 MRSA §4307, sub-§3**, as repealed and replaced by PL 1987, c. 349, Pt. H, §15, is repealed.

**Sec. 12. 22 MRSA §21, sub-§4**, as amended by PL 2011, c. 687, §3, is further amended to read:

**4. Electronic benefits transfer system or EBT.** "Electronic benefits transfer system" or "EBT" means a system for the delivery of benefits to recipients by means of credit or debit card services, ~~automated teller machines, point of sale devices or access to online systems for the withdrawal of funds or the processing of a payment for merchandise or a service.~~

**Sec. 13. 22 MRSA §23, sub-§1-A** is enacted to read:

**1-A. Cash withdrawals prohibited.** Benefits received through the EBT system may only be redeemed through purchase electronically pursuant to section 21, subsection 4 and may not be redeemed for cash.

**Sec. 14. 22 MRSA §3763, sub-§13** is enacted to read:

**13. Restriction on use of electronic benefits transfer system outside State.** A recipient of benefits under this chapter may not access those benefits using the electronic benefits transfer system established in section 22 outside of this State.

# AN ACT TO REDUCE THE REGULATION OF CHILD CARE FACILITIES

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

Sec. 1. 5 MRSA §12004-G, sub-§14-I is enacted to read:

14-I.

Sec. 2. 22 MRSA §3737, sub-§§4 and 5 are enacted to read:

4. **Child care rates.** The department shall establish payment rates for child care services that are at least equal to the 75th percentile of local market rates for the various categories of child care services. The payment rates for child care services for children with special needs must [25][26]be higher than the 75th percentile of local market rates.

5. **Choice of provider.** The recipient of a child care subsidy may pay out of pocket the difference between the amount of the subsidy provided by the department and the amount charged by a provider for a child care service.

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

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 noncitizens 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 criteria 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;

(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 substantiated 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 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;

(d) An ASPIRE-TANF recipient may choose to pay the difference out of pocket between the amount of child care subsidy provided by the department and the amount charged by a provider for a child care service.

The department shall notify the designated child care provider of an ASPIRE-TANF recipient's eligibility for child care assistance, any changes to eligibility, including renewals and information requests, and advanced notice of no less than 4 weeks of ineligibility as long as the ASPIRE-TANF recipient authorizes the communication between the designated child care provider and the department;

(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. 4. 22 MRSA §3762, sub-§8, ¶E**, as enacted by PL 2009, c. 291, §6, is repealed and the following enacted in its place:

E. The department shall establish payment rates for child care services that are at least equal to the 75th percentile of local market rates for the various categories of child care services. The payment rates for child care services for children with special needs must be higher than the 75th percentile of local market rates.

**Sec. 5. 22 MRSA §3782-A, sub-§5**, as enacted by PL 1997, c. 530, Pt. A, §19, is repealed and the following enacted in its place:

**5. Child care during participation in employment, education and training.** The department shall provide child care in accordance with federal law and this Title when the child care is necessary to permit a TANF-eligible family member to participate in the ASPIRE-TANF program.

A. The department shall establish payment rates for child care services that are at least equal to the 75th percentile of local market rates for the various categories of child care services. The payment rates for child care services for children with special needs must be higher than the 75th percentile of local market rates.

B. The department shall provide an ASPIRE-TANF program participant's actual cost or child care up to the maximum rate authorized by federal law. In determining the maximum rate, the State shall use a method that results in an amount that equals, or most closely approaches, the actual market rate in different regions of the State for various types of child care services received by families in the State participating in the ASPIRE-TANF program.

C. An ASPIRE-TANF program participant may choose to pay out of pocket the difference between the amount of the subsidy provided by the department and the amount charged by a provider for a child care service.

**Sec. 6. 22 MRSA §8301-A, sub-§1-A**, as amended by PL 2009, c. 211, Pt. B, §§20 and 21, is further amended to read:

**1-A. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Child care center" means:

(1) A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age; or

(2) Any location or locations operated as a single child care program or by a person or persons when there are more than 12 children being cared for.

B. "Child care facility" means a child care center, small child care facility or nursery school. "Child care facility" does not include a facility operated by a family child care provider, a youth camp licensed under section 2495, programs offering instruction to children for the purpose of teaching a skill such as karate, dance or basketball, a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A or a private school recognized by the Department of Education as a provider of equivalent instruction for the purpose of compulsory school attendance. Any program for children under 5 years of age that is located in a private school and programs that contract with one or more Child Development Services System sites are required to be licensed as a child care facility.

C. "Family child care provider" means a person who provides day care in that person's home on a regular basis, for consideration, for 3 5 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider's home. If a provider is caring for children living in that provider's home and is caring for no more than 2 4 other children, the provider is not required to be certified as a family child care provider.

D. "Nursery school" means a house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program that provides care for 3 5 or more children 33 months of age or older and under 8 years of age, ~~provided that~~ as long as:

(1) No session conducted for the children is longer than 3 1/2 hours in length;

(2) No more than 2 sessions are conducted per day;

(3) Each child in attendance at the nursery school attends only one session per day; and

(4) No hot meal is served to the children.

"Nursery school" does not include any facility operated as a child care center or small child care facility licensed under subsection 2, a youth camp licensed under section 2495 or a public or private school in the nature of a kindergarten approved by the Commissioner of Education, in accordance with Title 20-A.

E. "Small child care facility" means a house or other place, not the residence of the operator, in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 5 to 12 children under 13 years of age.

**Sec. 7. 22 MRSA §8301-A, sub-§2**, as amended by PL 2005, c. 640, §2, is further amended to read:

**2. Child care facility licensure.** The owner or operator of a child care facility shall pay the licensing fee required under section 8303-A. A child care facility must be licensed under this chapter and must comply with the rules adopted by the commissioner under section 8302-A and the fire safety requirements of section 8304-A. The department shall make at least one unannounced inspection of a child care facility licensed under this chapter during the term of the license. The inspection must take place between 6 and 18 months after the issuance of the license. A licensed child care facility that has been continuously in operation for a minimum of 5 years and has completed satisfactory inspections pursuant to this subsection is eligible for a license for 5 years at the time of the next regular license renewal. Except as otherwise provided, a nursery school must meet the requirements of this chapter and chapter 1675.

**Sec. 8. 22 MRSA §8301-A, sub-§3**, as amended by PL 2005, c. 640, §3, is further amended to read:

**3. Family child care provider certification.** A family child care provider shall pay the certification fee required under section 8303-A. A family child care provider must be certified under this chapter and shall comply with the rules adopted by the commissioner under section 8302-A and the fire safety requirements of section 8304-A. The department shall make at least one unannounced inspection of a family child care provider certified under this chapter during the term of the certificate. The inspection must take place between 6 and 18 months after the issuance of the certificate. A certified family child care provider that has been continuously in operation for a minimum of 5 years and has completed satisfactory inspections pursuant to this subsection is eligible for a certification for 5 years at the time of the next regular certification renewal.

**Sec. 9. 22 MRSA §8301-A, sub-§4**, as amended by PL 2005, c. 530, §7, is further amended to read:

**4. Complaints.** Upon receipt of a complaint about a licensed child care facility or a certified family child care provider and if the department has reasonable cause to suspect that a violation of the licensure or certification requirements has occurred, the department may investigate the complaint and enter the premises at any reasonable time for the purposes of the investigation as long as any inspection undertaken relates only to the complaint.

**Sec. 10. 22 MRSA §8357, sub-§5**, as enacted by PL 2015, c. 283, §3, is repealed.

Sec. 11. 22 MRSA c. 1674-A is enacted to read:

## CHAPTER 1674-A

### CHILD CARE APPEAL REVIEW PANEL

#### § 8359. Child Care Appeal Review Panel

The Child Care Appeal Review Panel, established by Title 5, section 12004-G, subsection 14-I, referred to in this chapter as "the review panel," shall review disputes between a child care facility, a family child care provider or a nursery school, as those terms are defined in section 8301-A, collectively referred to in this chapter as "the facility," and the department relating to compliance with licensing or certification, complaints and disputes but not investigations of out-of-home child abuse and neglect.

**1. Membership.** The review panel has 10 voting members appointed by the Governor as follows:

A. Three early childhood professionals;

B. One pediatric health care professional;

C. One parent of a child in a licensed child care facility or certified family child care provider; and

D. Five members representing a range of facilities from different geographic areas of the State.

The director of the division of licensing and regulatory services or the director's designee shall chair the review panel and act as a nonvoting member.

**2. Legal counsel.** The review panel receives legal counsel from the Office of the Attorney General.

**3. Terms.** Members of the review panel are appointed for 5-year terms. A member of the review panel appointed to fill a vacancy occurring otherwise than by expiration of a term is appointed only for the unexpired term of the member succeeded.

**4. Duties.** The review panel shall review disputes between the department and a facility. The review panel shall review the records, conduct any interviews or inspections considered necessary, make a determination regarding findings of fault and, if necessary, determine appropriate action by the department or the facility. Disputes subject to appeal include the following:

A. Revocation or suspension of a license or certification to operate a facility;

B. Denial of an application for a license or certification to operate a facility;

C. Conversion of a license or certification from regular to conditional status;

D. Disputes between facilities and the department concerning compliance with rules; and

E. Denials of alternative compliance requests.

**5. Timely review of disputes.** A facility that is aggrieved by a decision by the department related to a dispute subject to the review panel must file a request for the review panel to review the dispute within 30 days of receiving the decision by the department. The review panel shall schedule an initial meeting to review the dispute within 14 days of a request by a facility. A final decision on the dispute must be made no later than 30 days after the review panel has met to review the dispute. Any review conducted by the review panel must be in accordance with Title 5, chapter 375, subchapter 7.

**6. Authority.** The department and the facility shall act according to the final decision by the review panel.

**Sec. 12. 22 MRSA §9057, sub-§4,** as enacted by PL 2015, c. 299, §25, is amended to read:

**4. Conditional employment.** In accordance with subsection 2, an employer may employ an individual as a direct access worker on a conditional basis for up to 60 calendar days, or in a child care facility for up to 90 days, before the employer receives a final background check report or from the date the employer receives a disqualifying background report on the following conditions:

- A. The employer initiates the background check by entering the individual into the Background Check Center database as a conditionally employed worker;
- B. The individual is not identified in the Background Check Center database as a disqualified person based on an earlier background check;
- C. The individual has agreed to submit to the steps necessary to comply with this chapter, including taking substantial steps toward correcting inaccurate data in the disqualifying background check report if applicable;
- D. The individual signs a statement declaring that a background check will not reveal a disqualifying offense or that an offense that appears is inaccurate;
- E. The employer verifies and documents that the individual has submitted the mandatory identity verification and employment eligibility documents required by rules adopted in accordance with this chapter; and
- F. The individual is subject to direct personal supervision during the course of the conditional employment as described in rules adopted pursuant to this chapter.

**Sec. 13. PL 2011, c. 380, Pt. UU** is repealed.

**Sec. 14. Department of Health and Human Services to develop welfare cliff plan.**

The Department of Health and Human Services shall develop a plan for a sliding scale of income and subsidy to eliminate the so-called welfare cliff as it relates to child care subsidies so that an individual continues to receive some amount of subsidy for a period of time after reaching certain income thresholds. The department shall report the plan to the Joint Standing Committee on Health and Human Services no later than January 30, 2018. The committee is authorized to report out a bill regarding the plan to eliminate the welfare cliff to the Second Regular Session of the 128th Legislature.

**Sec. 15. Department of Health and Human Services to amend child care facility rules.**

No later than January 1, 2018, the Department of Health and Human Services shall amend Office of Child and Family Services rule Chapter 32: Rules for the Licensing of Child Care Facilities to make the following changes:

1. Remove the requirement for a minimum space of 35 square feet per child;
2. Allow for extenuating circumstances when child care facilities cannot meet staff-child ratios to allow for unusual circumstances as long as the facility documents the situation;

3. Change the staff-child ratios as follows: one staff person to 6 infants up to 12 months of age with a maximum of 10 children in the room; one staff person to 7 children 12 to 24 months of age with a maximum of 12 children in the room; one staff person to 12 children 24 to 36 months of age with a maximum of 20 children in the room; one staff person to 18 children 36 months to 4 years of age with a maximum of 30 children in the room; one staff person to 20 children 4 to 5 years of age with a maximum of 36 children in the room; and one staff person to 25 children 5 years of age and older with no maximum for children in the room. Staff that are employed on a conditional basis pursuant to the Maine Revised Statutes, Title 22, section 9057, subsection 4 are included as staff for the purpose of the staff-child ratios. The ratio for children of mixed ages should be an average of the groups for staff-child ratios;
4. Allow for a change in staff-child ratios when a child is within 6 months of the age that would result in lower staff-child ratios as long as the change is developmentally appropriate for the child;
5. Remove the authority of the department to post inspection reports and reports of violations on the department's publicly accessible website except for criminal and child abuse reports. Criminal and child abuse reports may be posted only after any appeals process has been completed;
6. Require the department to act in a respectful manner when posting or removing an action plan to address violations;
7. Require the department to provide the facility with a copy of all notes relating to an inspection or investigation prior to leaving the facility;
8. Allow a child care facility access to all records kept by the department relating to that child care facility at no cost to the facility and in a timely fashion;
9. Require the department to notify a child care facility of any information regarding the facility that is shared with parents, the public or the media for any reason including a freedom of access request or inquiries related to posted or unposted information about the facility;
10. Require that persons conducting inspections for the department provide one hour of advance notice to the director and owner of the facility of the intention to conduct an inspection;
11. Require the department to notify a child care facility if the individual who regularly inspects the facility changes;
12. Allow a facility license to be issued to a corporation;
13. Set licensing fees for 5-year licenses at 150% of the 2-year license fee;
14. Require the department to refund a license fee if the department does not issue the license;
15. Remove the requirement for the department to be notified of a change in director at a facility;
16. Remove the requirement for references to be supplied to the department for a license application;
17. Remove the requirement for personnel files of the director, owner, administrator, staff members and volunteers to include references;
18. Remove the requirement for the facility to provide extra clothing for preschool-aged children;
19. Remove requirements for the specific types of food provided in facilities;

20. Remove the requirement that dishes and nursing bottles must be made of unbreakable materials; and

21. Remove requirements for staff qualifications at child care centers.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. 16. Department of Health and Human Services to amend family child care provider rules.**

No later than January 1, 2018, the Department of Health and Human Services shall amend Office of Child and Family Services rule Chapter 33: Rules for the Certification of Family Child Care Providers to make the following changes:

1. Define an infant as 0 to 12 months of age and a toddler as one to 3 years of age for the purposes of staff-child ratios;
2. Change the staff-child ratios as follows: one staff person to 6 infants up to 12 months of age with a maximum of 10 children in the room; one staff person to 7 children 12 to 24 months of age with a maximum of 12 children in the room; one staff person to 12 children 24 to 36 months of age with a maximum of 20 children in the room; one staff person to 18 children 36 months to 4 years of age with a maximum of 30 children in the room; one staff person to 20 children 4 to 5 years of age with a maximum of 36 children in the room; and one staff person to 25 children 5 years of age and older with no maximum for children in the room. Staff that are employed on a conditional basis pursuant to the Maine Revised Statutes, Title 22, section 9057, subsection 4 are included as staff for the purpose of the staff-child ratios. The ratio for children of mixed ages should be an average of the groups for staff-child ratios;
3. Allow for a change in staff-child ratios when a child is within 6 months of the age that would result in lower staff-child ratios as long as it is developmentally appropriate for the child;
4. Remove the authority of the department to post inspection reports and reports of violations on the department's publicly accessible website except for criminal and child abuse reports;
5. Require the department to act in a respectful manner when posting or removing an action plan to address violations;
6. Require the department to provide the child care provider with a copy of all notes relating to an inspection or investigation prior to leaving the premises of the child care provider;
7. Allow a child care provider access to all records kept by the department relating to that child care provider at no cost to the provider and in a timely fashion;
8. Require the department to notify a child care provider of any information regarding the provider that is shared with parents, the public or the media for any reason including a freedom of access request or inquiries related to posted or unposted information about the provider;
9. Require that persons conducting inspections for the department provide one hour of advance notice to the director and owner of a child care facility of the intention to conduct an inspection. For a home provider, the department must give 2 hours of notice to allow the provider to bring in a support witness;
10. Require the department to notify a child care provider if the individual who regularly inspects the facility changes;

11. Allow a child care provider certification to be issued to a corporation;
12. Set certification fees for 5-year certifications at 150% of the 2-year certification fee;
13. Require the department to refund a certification fee if the department does not issue the certification;
14. Remove the requirement for references to be supplied to the department for a certification application;
15. Remove the requirement for the child care provider to provide extra clothing for preschool-aged children;
16. Remove requirements for the specific types of food provided by child care providers; and
17. Remove the requirement that dishes and nursing bottles be made of unbreakable materials.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. 17. Staggered terms of Child Care Appeal Review Panel.** Notwithstanding the Maine Revised Statutes, Title 22, section 8359, subsection 3, of the 10 members first appointed by the Governor to the Child Care Appeal Review Panel pursuant to Title 22, section 8359, subsection 1, the Governor shall designate one member whose term is one year, one member whose term is 2 years, one member whose term is 3 years and one member whose term is 4 years. The balance of members serve for 5 years.

**Sec. 18. 22 MRSA §8302-A, sub-§2, ¶D-1** is repealed:

- D-1. The quality of the program of child care that is provided;

# AN ACT TO RESTORE BALANCED EMERGENCY POWERS

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

Sec. 1. 37-B MRSA §742, sub-§1-A is enacted to read:

1-A. Limitation on emergency powers. The exercise of any emergency power a state or local official may have under the Constitution of Maine or the laws of this State that binds or regulates the public is limited as provided in this subsection.

A. As used in this subsection, unless the context otherwise indicates, the following 7 terms have the following meanings.

(1) "Constitutional right" means any right guaranteed under the United States Constitution or the Constitution of Maine including, but not limited to, the right to:

(a) Travel, work, assemble and speak;

(b) Exercise religion without government interference;

(c) Make contracts and hold property without government interference;

(d) Be free from unreasonable searches and seizures; and

(e) Purchase and keep firearms and ammunition.

(2) "Emergency order" means an order, decree, regulation or other mandate 16 proclaimed or promulgated by a state or local official.

(3) "State or local official" means the Governor, a person within the executive 18 branch or an elected or appointed member of a municipal government.

B. Notwithstanding any law to the contrary, an emergency order that is issued by a state or local official that binds, curtails or infringes the rights of private parties must be narrowly tailored to serve a compelling health or safety purpose. Only the Governor may issue an order that infringes constitutional rights, and that order must be narrowly tailored to serve a compelling health or safety purpose. Each emergency order must be limited in duration, applicability and scope in order to reduce any infringement of the rights of private parties or constitutional rights.

C. A court of this State has jurisdiction to hear a case challenging the legality of an emergency order, including compliance with the limitations imposed on emergency orders pursuant to this subsection. A court shall expedite consideration of a challenge brought pursuant to this paragraph to the extent practicable. Inequality in the applicability of the impact of emergency orders on analogous groups, situations and circumstances may constitute one ground among others for a court to invalidate or enjoin an emergency order, or some of its applications, on the basis that it is not narrowly tailored to serve a compelling public health or safety purpose.

**Sec. 2. 37-B MRSA §742, sub-§1, ¶C**, as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (4) to read:

(4) Authorize the obtaining and acquisition of ~~property~~, supplies and materials pursuant to section 821;

**Sec. 3. 37-B MRSA §742, sub-§1, ¶C**, as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (5) to read:

(5) Enlist the aid of any willing person to assist in the effort to control, put out or end the emergency or aid in the caring for the safety of persons;

**Sec. 4. 37-B MRSA §742, sub-§1, ¶C**, as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (6) to read:

(6) Direct ~~and compel~~ the evacuation of all or part of the population from any stricken or threatened area within the State, if the Governor determines this action necessary for the preservation of life or other disaster mitigation, response or recovery. An action taken under this subparagraph must be applied to the smallest political subdivision possible. Statewide application of this subparagraph must be approved by 2/3 of the membership of the Legislative Council;

**Sec. 5. 37-B MRSA §742, sub-§1, ¶C**, as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (8) to read:

(8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein. Occupancy limitations that would have a substantial impact on the operation of businesses in the State must be approved by 2/3 of the membership of the Legislative Council;

**Sec. 6. 37-B MRSA §742, sub-§1, ¶C**, as amended by PL 2019, c. 617, Pt. H, §1, 17 is further amended by repealing subparagraph (9).

**Sec. 7. 37-B MRSA §742, sub-§1, ¶C**, as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (12) to read:

(12) Take whatever action is necessary to abate, clean up or mitigate whatever danger may exist within the affected area. Any action under this subparagraph that would directly result in the temporary or permanent closure of any business or civic or religious organization must be approved by 2/3 of the membership of the Legislative Council; and

**Sec. 8. 37-B MRSA §742, sub-§1, ¶E** is enacted to read:

E. In the event that an order issued by the Governor pursuant to the powers granted in paragraph C is to be in effect for longer than 30 days, the Governor shall, before the 20th day following the issuance of the order, convene the Legislature, and the Legislature must, by 2/3 vote in each House, vote to extend the state of emergency and the Governor's authority in doing so.

**Sec. 9. 37-B MRSA §742, sub-§1, ¶F** is enacted to read:

E. The Governor, during the pendency of a state of emergency, may not reissue or renew an emergency proclamation, issue another emergency proclamation that is substantially similar to one that expired or reissue an emergency proclamation terminated by the Legislature without approval of the Legislature.

**Sec. 10. 37-B MRSA §742, sub-§2, ¶C**, as amended by PL 2001, c. 353, §5, is further amended by amending subparagraph (2) to read:

(2) The enforcement powers granted in sections 786 and 829, unless the Governor specifically invokes these powers by an order issued pursuant to an energy emergency proclamation and approved by a ~~majority~~ 2/3 of the membership of the Legislative Council. That order must specify those emergency orders or rules that are enforceable pursuant to this paragraph and must further specify the enforcement activities emergency management organizations are to pursue. No An enforcement action may not be taken pursuant to this paragraph without publication of the order authorizing the action in a manner reasonably calculated to give affected persons adequate notice of the order or rule to be enforced, which may include publication on the Internet, and the sanctions to be applied. Publication of the order may include publication on the Internet.

**Sec. 11. , sub-§2**, as enacted by PL 1983, c. 594, §34, is amended to read:

**2. Limitation.** ~~No~~ A state of emergency may continue for longer than 30 days unless renewed by the Governor not be issued for a period longer than 30 days. Any subsequent renewal of the same state of emergency must receive approval by a 2/3 vote of each House of the Legislature. If the renewal is rejected by the Legislature, the Governor shall issue an executive proclamation ending the state of emergency within 24 hours of the rejection. A new state of emergency may not be declared for at least 30 days without approval by a majority vote of each House of the Legislature. The Legislature, by joint resolution, may terminate a state of emergency at ~~anytime~~ any time. Thereupon, the Governor shall issue an executive proclamation ending the state of emergency. The Legislature may terminate or amend any specific emergency order of the Governor with respect to a state of emergency by a majority vote of each House. This subsection does not apply to the Governor's powers under chapter 3.

# AN ACT TO ENSURE A SUSTAINABLE GRID

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

Sec. 1. 35-A MRSA §3209-A, as amended by PL 2019, c. 478, Pt. A, §3, is repealed.

Sec. 2. 35-A MRSA §3209-B, as corrected by RR 2019, c. 1, Pt. A, §51, is repealed.

Sec. 3. 35-A MRSA §3209-C is enacted to read:

## **§3209-C. Net energy billing requirement prohibited**

The commission may not by rule or order require a transmission and distribution utility to allow a customer to participate in net energy billing. For the purposes of this section, "net energy billing" means a billing and metering practice under which a customer of a transmission and distribution utility has the ability to receive a bill credit or other adjustment of the customer's transmission and distribution service bill by delivering electricity to the transmission and distribution utility from an electric generating facility owned or operated by that customer or in which that customer has a financial interest that is located in the service territory of the transmission and distribution utility in the State.

Sec. 4. 35-A MRSA §3210, sub-§2, ¶B-3, as enacted by PL 2009, c. 542, §3, is amended to read:

B-3. "Renewable capacity resource" means a source of electrical generation:

(1) Whose production capacity relies on one or more of the following:

(a) Fuel cells;

(b) Tidal power;

(c) Solar arrays and installations;

(d) Geothermal installations; or

(e) Hydroelectric generators that meet all state and federal fish passage requirements applicable to the generator; or

(f) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or

(2) That relies on wind power installations.

Sec. 2. 35-A MRSA §3210, sub-§2, ¶C, as amended by PL 2009, c. 542, §5, is further amended to read:

C. "Renewable resource" means a source of electrical generation:

(1) That qualifies as a small power production facility under the Federal Energy Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart B, as in effect on January 1, 1997;  
or

(2) Whose ~~total power~~ production capacity does not exceed 100 megawatts and that relies on one or more of the following:

- (a) Fuel cells;
- (b) Tidal power;
- (c) Solar arrays and installations;
- (d) Wind power installations;
- (e) Geothermal installations;
- (f) Hydroelectric generators;
- (g) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or
- (h) Generators fueled by municipal solid waste in conjunction with recycling; or

**Sec. 5. 35-A MRSA §10109, sub-§3-B** is enacted to read:

3-B. Ceiling on energy efficiency spending. There is established a ceiling on energy efficiency spending from the trust fund equal to \$5 per carbon dioxide allowance. Until that price ceiling is adjusted or removed, only the first \$5 of each carbon dioxide allowance sold and deposited in the trust fund may be awarded to or directed to qualified projects for purposes of energy efficiency improvements.

A. Until fiscal year 2019-20, the trust shall transfer to the commission for distribution to Maine-based energy-intensive businesses, other than affected customers, any revenue received that is in excess of the sum of:

- (1) Carbon dioxide allowances valued above \$5; and
- (2) The transfer, in accordance with subsection 3-A, to the commission of \$3,000,000 to be used for disbursements to affected customers.

B. Beginning with fiscal year 2019-20:

- (1) Revenue received by the trust from carbon dioxide allowances valued above \$5 up to a limit of \$3,000,00 per year must be transferred to the commission for use by the commission for the benefit of affected customers in accordance with section 3-A; and
- (2) Revenue received by the trust in excess of the amount transferred in accordance with subparagraph (1) must be transferred to the commission for distribution to Maine-based energy-intensive businesses, other than affected customers, up to an additional \$3,000,000 annually. Any funds received by the trust in excess of a value of \$5 per carbon dioxide allowance plus \$6,000,000 must be transferred to the commission for distribution to electric ratepayers in a manner designed to provide the greatest benefit to the State economy as determined by the commission. For purposes of this subsection, "affected customer" has the same meaning as in subsection 3-A. The commission may adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 6. 35-A MRSA §10109, sub-§4, ¶A-1** is enacted to read:

A-1. Notwithstanding paragraph A, during fiscal years 2017-18 and 2018-19 the trust need not allocate 50% of the funds for residential programs and 50% for commercial and industrial programs and may instead allocate those funds to programs determined by the trust.

**Sec. 7. 35-A§3210**

**§3210. Renewable resources**

Repealed

# AN ACT TO EXPAND HEALTH CARE CHOICE

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

**Sec. 1. 24-A MRSA §4318-A, first ¶**, as enacted by PL 2017, c. 232, §8, is amended to read:

Beginning January 1, 2023, a carrier offering a health plan in this State shall establish, at a minimum, for all small group health plans as defined in section 2808-B, subsection 1, paragraph G ~~compatible with a health savings account authorized under federal law~~, a health plan design in which enrollees are directly incentivized to shop for low-cost, high-quality participating providers for comparable health care services. Incentives may include, but are not limited to, cash payments, gift cards or credits or reductions of premiums, copayments or deductibles. A small group health plan design created under this section must remain available to enrollees for at least 2 consecutive years, except that any changes made to the program after 2 years, including, but not limited to, ending the incentive, may not be construed as a change to the small group health plan design for the purpose of guaranteed renewability under section 2808-B, subsection 4 or section 2850-B. Incentives must be equal to or greater than 25% of the difference between the price of the service from the provider selected and the statewide average for the same covered health care service based on data reported on the publicly accessible health care costs website of the Maine Health Data Organization. A carrier may use the average price paid to a network provider for the covered comparable health care service under the enrollee's health plan in lieu of the statewide average price on the Maine Health Data Organization's publicly accessible website as long as the carrier uses a reasonable method to calculate the average price paid.

A multiple-employer welfare arrangement is not considered a carrier for the purposes of this section.

**Sec. 2. 24-A MRSA §4318-A, sub-§1, ¶A**, as enacted by PL 2017, c. 232, §8, is amended to read:

A. "Comparable health care service" means nonemergency, outpatient health care services in the following categories:

- (1) Physical and occupational therapy services;
- (2) Radiology and imaging services;
- (3) Laboratory services; ~~and~~
- (4) Infusion therapy services; and
- (5) Surgical procedures.

**Sec. 3. 24-A MRSA §4318-A, sub-§8**, as enacted by PL 2017, c. 232, §8, is repealed.

**Sec. 4. 24-A MRSA §4318-B, sub-§1**, as enacted by PL 2017, c. 232, §9, is amended to read:

1. **Services from out-of-network provider; lower prices.** Beginning January 1, 2023, if an enrollee covered under a health plan ~~other than a health maintenance organization plan~~ elects to obtain a covered comparable health care service as defined in section 4318-A, subsection 1, paragraph A from an out-of-network provider at a price that is the same or less than the statewide average for the same covered health care service based on data reported on the publicly accessible health care costs website of the Maine Health Data Organization, the carrier shall allow the enrollee to obtain the service from

the out-of-network provider at the provider's charge and, upon request by the enrollee, shall apply the payments made by the enrollee for that comparable health care service toward the enrollee's deductible and out-of-pocket maximum as specified in the enrollee's health plan as if the health care services had been provided by an in-network provider. A carrier may use the average price paid to a network provider for the covered comparable health care service under the enrollee's health plan in lieu of the statewide average price on the Maine Health Data Organization's publicly accessible website as long as the carrier uses a reasonable method to calculate the average price paid and the information is available to enrollees through a website accessible to the enrollee and a toll-free telephone number that provide, at a minimum, information relating to comparable health care services.

The enrollee is responsible for demonstrating to the carrier that payments made by the enrollee to the out-of-network provider should be applied toward the enrollee's deductible or out-of-pocket maximum pursuant to this section. The carrier shall provide a downloadable or interactive online form to the enrollee for the purpose of making such a demonstration and may require that copies of bills and proof of payment be submitted by the enrollee. ~~For the purposes of this section, "out-of-network provider" means a provider located in Massachusetts, New Hampshire or this State that is enrolled in the MaineCare program and participates in Medicare.~~

**Sec. 5. 24-A MRSA §4318-B, sub-§3**, as enacted by PL 2017, c. 232, §9, is repealed.

**Sec. 6. 22 MRSA c. 103-A**, as amended, is repealed.

**Sec. 7. 22 MRSA §1708, sub-§3, ¶D**, as amended by PL 2013, c. 594, §1, is repealed.[27]

# AN ACT TO REQUIRE LEGISLATIVE REVIEW OF DAFS RULEMAKING

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

Sec. 1 5 MRSA

## §8052. Rulemaking

1. Notice; public hearing. Prior to the adoption of any rule, the agency shall give notice as provided in section 8053 and may hold a public hearing, except that a public hearing must be held if otherwise required by statute or requested by any 5 interested persons, all rules under this section shall be considered a major substantive rule as defined in section 8071, subsection 2, paragraph B.

# AN ACT TO RESTORE ACCOUNTABILITY IN RULEMAKING

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

## PART A

Sec. A-1. 5 MRSA §8053-B is enacted to read:

### § 8053-B. Joint Committee on Administrative Rules

1. Establishment. There is hereby established a permanent joint committee of the general assembly to be known as the Joint Committee on Administrative Rules.

2. Membership. The Senate President and the Speaker of the House of Representatives shall designate six committee members from each of their respective chambers to jointly conduct the review of proposed rules as provided in this subchapter and subchapter 2-A. Every term, the chambers shall alternate which chamber may designate an additional and seventh member to make the total number of committee members thirteen. A majority of members constitutes a quorum.

3. Term length. The appointment of each member shall continue during their term of office as a member of the general assembly unless sooner removed.

4. Co-chairs. Each chamber shall designate one co-chair of the committee. The co-chairs shall each appoint subcommittees in their respective chambers to conduct the review of each major substantive rule.

Sec. A-2. 5 MRSA §8053-A, sub-§3, as enacted by PL 1989, c. 574, §5, is amended to read:

**3. Submission of materials to the Legislature.** When an agency, pursuant to subsection 1 or 2, provides materials to the Legislature, it shall provide them to the Executive Director of the Legislative Council, who shall refer the materials to the appropriate committee or committees of the Legislature Joint Committee on Administrative Rules for review. The agency shall provide sufficient copies of the materials for each member of the appropriate committee or committees.

Sec. A-3. 5 MRSA §8053-A, sub-§5, as enacted by PL 2011, c. 479, §4, is amended to read:

**5. Annual lists of rule-making activity.** By February 1st of each year, the Secretary of State shall provide the Executive Director of the Legislative Council lists by agency of all rules adopted by each agency in the previous calendar year. The Executive Director of the Legislative Council shall refer each list to the appropriate joint standing committee or committees of the Legislature Joint Committee on Administrative Rules for review. Each list must include for each rule the following information, which must be submitted by each agency to the Secretary of State:

- A. The statutory authority for the rule and the rule chapter number and title;
- B. The principal reason or purpose for the rule;
- C. A written statement explaining the factual and policy basis for each rule adopted pursuant to section 8052, subsection 5;
- D. If the rule adopted was routine technical or major substantive;

E. If the rule was adopted as an emergency; and

F. The fiscal impact of the rule.

**Sec. A-4. 5 MRSA §8053-A, sub-§6**, as enacted by PL 2011, c. 479, §4, is amended to read:

**6. Authority to report out legislation.** After each ~~appropriate joint standing committee of the Legislature~~ the Joint Committee on Administrative Rules has received a list of rule-making activity pursuant to subsection 5, the committee may require an agency to appear before the committee, and the committee may report out legislation in the same legislative session in which the report is received to adjust rule-making authority related to the rules adopted in the previous calendar year.

**Sec. A-5. 5 MRSA §8056-A, sub-§3**, as amended by PL 1991, c. 554, §3, is further amended to read:

**3. Report.** The Secretary of State shall report to the Governor and the ~~joint standing committee of the Legislature having jurisdiction over state and local government~~ Joint Committee on Administrative Rules prior to February 1st of each year with respect to rule-making activities for the prior year. The report must include statistical information on agency rule-making activities, agency experience with procedural requirements of this subchapter, an evaluation of the codification process, the impact of the electronic text file data base on state agencies and users of the rules and recommendations for improvements to the rule-making process. In preparing the report, the Secretary of State shall solicit comments on this subchapter from agencies and their legal counsels, the Executive Director of the Legislative Council and the public.

**Sec. A-6. 5 MRSA §8060, first ¶**, as enacted by PL 1989, c. 547, §8, is amended to read:

Each agency with the authority to adopt rules shall issue to the ~~appropriate joint standing committee or committees of the Legislature~~ Joint Committee on Administrative Rules and to the Secretary of State an agency regulatory agenda as provided in this section.

**Sec. A-7. 5 MRSA §8060, sub-§5**, as enacted by PL 1989, c. 547, §8, is amended to read:

**5. Legislative review of agency regulatory agendas.** Each regulatory agenda shall be reviewed by the ~~appropriate joint standing committee of the Legislature~~ Joint Committee on Administrative Rules at a meeting called for the purpose. The committee may review more than one agenda at a meeting.

**Sec. A-8. 5 MRSA §8072, sub-§3**, as amended by PL 2011, c. 244, §4, is further amended to read:

**3. Legislative review; legislative instrument prepared.** If the required copies of the provisionally adopted rule and related information are received by the Executive Director of the Legislative Council during the legislative rule acceptance period, the Executive Director shall notify the Revisor of Statutes, who shall draft an appropriate legislative instrument to allow for legislative review and action upon the provisionally adopted rule during the legislative review session. The Secretary of the Senate and the Clerk of the House shall place the legislative instrument on the Advance Journal and Calendar. The secretary and clerk shall jointly suggest reference of the legislative instrument to a ~~joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule~~ the Joint Committee on Administrative Rules and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt of the legislative instrument. After floor action on referral of the legislative instrument to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related information to each member of that

committee. Each rule submitted for legislative review during the legislative rule acceptance period must be reviewed by the ~~appropriate joint standing committee~~ Joint Committee on Administrative Rules at a meeting called for that purpose in accordance with legislative rules. A committee may review more than one rule and the rules of more than one agency at a meeting. The committee shall notify the affected agency of the meeting on its proposed rules.

**Sec. A-9. 5 MRSA §8072, sub-§7**, as amended by PL 2011, c. 244, §7, is further amended to read:

**7. Report to the Legislature.** Unless otherwise provided by the Legislature, each ~~joint standing committee of the Legislature that receives a rule submitted during the legislative rule acceptance period~~ the Joint Committee on Administrative Rules shall report to the Legislature its recommendations concerning final adoption of the rule no later than 30 days before statutory adjournment of the legislative review session as provided in Title 3, section 2.

**Sec. A-10. 5 MRSA §11111, sub-§2**, as enacted by PL 1981, c. 524, §15, is amended to read:

**2. Committee.** "Committee" means a joint standing committee of the Legislature the Joint Committee on Administrative Rules.

**Sec. A-11. 5 MRSA §11113**, as amended by PL 1985, c. 737, Pt. B, §16, is further amended to read:

The executive director shall, upon receipt of an application for review, ~~determine the appropriate joint standing committee of the Legislature responsible for review of the rule in question~~ and send the application and a copy of the rule in question to each member of the ~~committee~~ Joint Committee on Administrative Rules. Each member of the committee shall individually review the application to determine whether the applicant is qualified and whether the public interest would be served by a review of the rule in question by the full committee. If a committee member decides that the review should be made, he shall notify the director within 15 days after notice was sent. If 1/3 or more of the full committee notify the director that a review of the rule should be made, the director shall advise the ~~chairman~~ co-chairs of the committee, who shall schedule a meeting of the committee to review the rule. If the committee votes not to review the rule, a report to that effect shall be prepared by the director and sent to the applicant and the Legislative Council.

The applicant and the affected agency shall be notified of a decision to review the rule and shall be permitted to make expanded statements of their position to the full committee. The committee, in the course of its review, may hold a public hearing, request and obtain opinions of the Attorney General, obtain information from the agency and conduct further investigation approved by the Legislative Council. The committee shall make its determination and report within 90 days of the first notification to the committee chairmen that a review shall be made.

**Sec. A-12. 5 MRSA §11116**, as enacted by PL 1981, c. 524, §15, is amended to read:

**1. Debt obligations.** ~~A joint standing committee~~ The Joint Committee on Administrative Rules may not review an agency rule which is part of official action towards issuance or securing repayment of bonds, notes or other debt obligations of the State, its instrumentalities or political subdivisions.

**2. Review on committee's own motion.** This chapter shall not limit a committee from reviewing a rule on its own motion.

**3. Failure to review.** The failure of a committee to review a rule or to recommend modification or termination is not an implied legislative authorization of its substantive or procedural lawfulness and shall not be considered for any purpose in a judicial proceeding. No legislative review of a rule may supersede the judicial review granted in section 8058 or 11001.

## PART B

**Sec. B-1. 5 MRSA §8075 is enacted to read:**

### **§ 8075. Legislative Economic Analysis Unit**

**1. Establishment.** A Legislative Economic Analysis Unit (LEAU) shall be created within the Legislature to provide independent and reliable economic analysis and other information relevant to the conduct of the Legislature's oversight and legislative duties.

A. The LEAU shall be headed by a Chief Economist, who is appointed jointly by President of the Senate and Speaker of the House and serves at their pleasure. If there is no agreement by the President and Speaker on the appointment or continued tenure of a Chief Economist, the office shall remain vacant, but the work of other employees of the LEAU may continue.

B. The LEAU shall be staffed by such other career professionals as the Chief Economist deems necessary and appropriate, subject to the appropriations, rules, and other limitations established by the Legislature.

C. In determining the LEAU's annual appropriation, the appropriations committees in each chamber shall use as a baseline a one- to two-percent contribution from the budget of each regulatory agency—to the end that regulatory agencies are properly incorporating the cost of an independent analysis and legislative review of their rules.

**2. Responsibilities.** In addition to other tasks the President of the Senate and Speaker of the House may assign to the LEAU, it shall produce:

A. Determinations whether a proposed rule is a major substantive rule, whenever such determination is requested by the President of the Senate, Speaker of the House, or either co-chair of the Joint Committee on Administrative Review;

B. Regulatory impact analyses as described in section 8076, of:

(1) Provisionally adopted major substantive rules within 15 legislative days of submission by an agency as a major substantive rule or within 15 legislative days of LEAU's determination that any other rule is a major substantive rule;

(2) Existing rules as specified in section 8076, subsection 2; and

(3) Significant grants received from the federal government or from other sources external to state government, when requested by the President of the Senate, Speaker of the House, or any chair or ranking minority member of any committee with jurisdiction over the relevant subject matter of the grant.

**3. Determination of major substantive rules.** The LEAU's determination that a proposed rule is a major substantive rule shall be made public to provide notice that such rule might not be in effect without legislative approval. Courts shall have jurisdiction to conduct de novo review of whether a proposed rule is a major substantive rule, but no such determination precludes the Legislature from using the procedures of this or any other act to approve, disapprove, or enact other legislation regarding a rule at any time.

**Sec. B-2. 5 MRSA §8076 is enacted to read:**

**§ 8076. Regulatory impact analysis of major substantive rules and grants**

**1. Components of regulatory impact analysis.** Whenever reasonably practicable, a regulatory impact analysis conducted by the LEAU, as mentioned in section 8075, subsection 2, paragraph B, shall include:

A. Statement of need;

B. Legal basis for the rule or grant;

C. Examination of alternatives (for new rules or grants);

D. Evaluation of costs and benefits (for each alternative for new rules or grants), including:

(1) Estimated primary or direct benefits,

(2) Estimated cost savings or financial benefits to society,

(3) Estimated compliance costs for regulated entities,

(4) Estimated secondary or indirect costs,

(5) Estimated effect on state revenue,

(6) Estimated effect on state expenditures, including estimated administrative expenses, and

(7) Estimated opportunity cost. The analysis must identify the opportunity cost of compliance, as a result of the removal of private capital from the market;

E. Sources consulted; and

F. Key assumptions and sources of uncertainty.

**2. Analysis of existing rules.** To the extent resources are available, the LEAU shall also evaluate or conduct the analysis specified in subsection 1 of specified existing rules, including routine technical rules, when requested by either co-chair of the Joint Committee on Administrative Rules. The LEAU shall undertake such a review in the order requested unless, in a given session, the Senate President and Speaker of the House direct otherwise.

**3. Publication of analysis.** Upon completion, analysis of each rule, grant, or other matter shall be made publicly available. At the end of each calendar year, the Chief Economist shall provide the Senate President and the Speaker of the House a report summarizing the matters evaluated that year.

## **SUMMARY**

This bill restores accountability to agency rulemaking by giving legislators more effective oversight tools to ensure agencies stay within the permissive bounds of authority and that agencies don't issue abusive rules that would never pass the legislative process.

Part A creates a Joint Committee on Administrative Rules in the Legislature to conduct systematic review of administrative rules.

Part B creates a Legislative Economic Analysis Review Unit to provide independent and reliable economic analysis and other information relevant to the conduct of the Legislature's oversight and legislative duties.

# AN ACT TO REFORM THE ADMINISTRATIVE STATE

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

**Sec. A-1. 5 MRSA §8058, sub-§3 is enacted to read:**

**3. De novo review.** In interpreting a state statute, rule, or sub-regulatory document, a state court or an officer hearing an administrative action may not defer to a state agency's interpretation of it, and must instead interpret its meaning and effect de novo. In actions brought by or against state agencies, after applying all customary tools of interpretation, the court or hearing officer must exercise any remaining doubt in favor of a reasonable interpretation which limits agency power and maximizes individual liberty.

**Sec. A-2. 5 MRSA §9061, first ¶, as enacted by PL 1977, c. 551, §3, is amended to read:**

Every agency decision made at the conclusion of an adjudicatory proceeding shall be in writing or stated in the record, and shall include findings of fact sufficient to apprise the parties and any interested member of the public of the basis for the decision. A copy of the decision shall be delivered or promptly mailed to each party to the proceeding or his representative of record. Written notice of the party's rights to review or appeal of the decision within the agency or review of the decision by the courts, as the case may be, and of the action required and the time within which such action must be taken in order to exercise the right of review or appeal, shall be given to each party with the decision. In any review or appeal of a decision to a court of this State, the court may not defer to an agency's interpretation of statutes, rules, or sub-regulatory documents, and must instead interpret their meaning and effect de novo. After applying all customary tools of interpretation, the court must exercise any remaining doubt in favor of a reasonable interpretation which limits agency power and maximizes individual liberty.

**Sec. A-3. 5 MRSA §11007, sub-§3, as amended by PL 2021, c. 277, §10, is further amended to read:**

**3. Judgment.** The court may not substitute its judgment for that of the agency on questions of fact, except that, with respect to a timely appeal by an individual of a denial of a disability determination by a hearing officer pursuant to sections 17106-A and 17106-B, the court shall review the matter de novo. The court shall review de novo an agency's interpretation of a statute, rule, or sub-regulatory document. After applying all customary tools of interpretation, the court must exercise any remaining doubt in favor of a reasonable interpretation which limits agency power and maximizes individual liberty.

**Sec. B-1. 5 MRSA §8065 is enacted to read:**

## **§ 8065. Sunset review of administrative rules**

**1. Expiration of rules.** Notwithstanding any other law to the contrary, unless legislation is enacted to continue a rule to a date certain or indefinitely, any finally adopted rule filed with the Secretary of State shall expire on June 30th of the fifth year following the year of its filing. The postponement of the expiration of a rule does not constitute legislative approval of the rule and is not admissible in any court as evidence of legislative intent.

**2. Exceptions.** This section shall not apply to:

A. Emergency rules promulgated pursuant to section 8054; or

B. Rules adopted to conform to or implement federal law.

**Sec. B-2. 5 MRSA §8066** is enacted to read:

**§ 8066. Gubernatorial approval of proposed rules**

The adoption or amendment of any rule by any state agency shall be subject to the approval of the governor. No agency may submit for publication pursuant to section 8053 any required notice of the adoption of a new rule or the amendment of an existing rule without first receiving from and including a copy of the written approval of the adopted or amended rule by the governor.

**Sec. C-1. 5 MRSA §8071, sub-§2**, as enacted by PL 1995, c. 463, §2, is amended to read:

**2. Categories of rules.** There are 2 categories of rules authorized for adoption after January 1, 1996.

A. Routine technical rules are ~~procedural~~ rules that establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules as defined in paragraph B. Routine technical rules include, but are not limited to, forms prescribed by an agency; they do not include fees established by an agency except fees established or amended by agency rule that are below a cap or within a range established by statute are not major substantive rules.

B. Major substantive rules are rules, including emergency rules, that, in the judgment of the Legislature, will result in or are likely to result in:

(1) ~~Require the exercise of significant agency discretion or interpretation in drafting; or~~

(2) ~~Because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government as defined in the Constitution of Maine, Article IX, Section 21, or other serious burdens on the public or units of local government.~~

(1) An annual effect on the economy of \$[XX] million or more;

(2) Significant adverse effects on competition, employment, investment, productivity, innovation, including significant adverse effects on individual industries or regions; or

(3) Significant changes in social and cultural relations among citizens, including significant impacts on religious, ethnic, racial, or gender populations.

**Sec. C-2 5 MRSA §8072, sub-§11**, as enacted by PL 2011, c. 244, §10, is amended to read:

**11. Prohibited final adoption.** A provisionally adopted rule or part of a provisionally adopted rule may not be finally adopted by an agency unless:—

A. ~~L~~ legislation authorizing adoption of the rule or part of the rule is enacted into law; ~~or~~ .

~~B. The agency submits the rule or part of the rule in accordance with this section during the legislative rule acceptance period and the Legislature fails to act on the rule or part of the rule.~~

~~For purposes of this subsection, the Legislature fails to act on a rule or part of a rule if the Legislature fails to enact legislation authorizing adoption or disapproving adoption of the rule or part of the rule during the legislative review session or during any subsequent session to which a legislative instrument expressly providing for approval or disapproval of the rule or part of the rule is carried over. Nothing in this section requires the Legislature to use the legislative instrument produced pursuant to subsection 3 to approve or disapprove of a rule or part of a rule.~~

## **SUMMARY**

This bill makes several changes to Maine's administrative procedures in order to restore the separation of powers and safeguard individual liberty.

Sections A-1 through A-3 require courts and hearing officers to review an agency's interpretation of a statute, rule, or sub-regulatory document without deference to the agency's interpretation. If the legal text is still unclear, even after the judge exhausts all customary interpretive tools, the judge must default to a reasonable interpretation which limits agency power and maximizes individual liberty.

Section B-1 provides that administrative rules shall expire on June 30th of the fifth year following the year of their filing unless extended by the legislature. Section B-2 requires rules to be approved by the governor before they can be finally adopted by an agency.

Section C-1 changes the definitions of routine technical rules and major substantive rules. Section C-2 eliminates the provision allowing agencies to finally adopt major substantive rules that the legislature failed to act on.

# AN ACT TO REPEAL PERSONAL PROPERTY TAX COLLECTION

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

**Sec. 1 36 MRSA**

**§502. Property taxable; tax year**

All real estate within the State, ~~all personal property of residents of the State and all personal property within the State of persons not residents of the State~~ is subject to taxation on the first day of each April as provided; and the status of all taxpayers and of such taxable property must be fixed as of that date. Upon receipt of a declaration of value under section 4641-D reflecting a change of ownership in real property, the assessor may change the records of the municipality to reflect the identity of the new owner, if notice of tax liabilities is sent both to the new owner and to the owner of record as of the April 1st when the liability accrued. The taxable year is from April 1st to April 1st. Notwithstanding this section, proration of taxes must be over the period specified in section 558.

**Sec. 2 36 MRSA §1482. Excise tax**      Repealed

**Sec. 3 36 MRSA §1501 - §1506. Watercraft Excise Tax** Repealed

# AN ACT TO BASE THE MOTOR VEHICLE EXCISE TAX ON SALE PRICE

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

**Sec. 1. 29-A MRSA §533-A, sub-§3, ¶A**, as amended by PL 2011, c. 646, §1, is further amended to read:

A. Between July 1st and October 31st, the Secretary of State shall disburse to a participating municipality a sum equal to the difference in the amount of excise tax that would have been collected by that municipality in the prior fiscal year on each commercial motor vehicle or bus under Title 36, section 1482, subsection 1, paragraph C, ~~subparagraph (3) or (4)~~ using the manufacturer's suggested retail price from the amount of that excise tax actually collected by that municipality in the prior fiscal year based on the actual purchase price. The Secretary of State shall provide supporting documentation to a municipality regarding the disbursement that municipality receives under this section.

**Sec. 2. 36 MRSA §1482, sub-§1, ¶C**, as amended by PL 2013, c. 263, §1, is further amended to read:

C. For the privilege of operating a motor vehicle, including a commercial motor vehicle as defined in Title 29-A, section 101, subsection 17, paragraphs A and B and special mobile equipment as defined in Title 29-A, section 101, subsection 70, or camper trailer on the public ways, each motor vehicle, other than a stock race car, or each camper trailer to be so operated is subject to excise tax as follows; ~~except as specified in subparagraph (3), (4) or (5):~~ a sum equal to 24 mills on each dollar of the maker's list purchase price for the first or current year of model, 17 1/2 mills for the 2nd year, 13 1/2 mills for the 3rd year, 10 mills for the 4th year, 6 1/2 mills for the 5th year and 4 mills for the 6th and succeeding years. The minimum tax is \$5 for a motor vehicle other than a bicycle with motor attached, \$2.50 for a bicycle with motor attached, \$15 for a camper trailer other than a tent trailer and \$5 for a tent trailer. The excise tax on a stock race car is \$5.

(1) On new registrations of automobiles, trucks and truck tractors, the excise tax payment must be made prior to registration and is for a one-year period from the date of registration.

(2) Vehicles registered under the International Registration Plan are subject to an excise tax determined on a monthly proration basis if their registration period is less than 12 months.

~~(3) For commercial vehicles manufactured in model year 1996 and after, the amount of excise tax due for trucks or truck tractors registered for more than 26,000 pounds and for Class A special mobile equipment, as defined in Title 29-A, section 101, subsection 70, is based on the purchase price in the original year of title rather than on the list price. Verification of purchase price for the application of excise tax is determined by the initial bill of sale or the state sales tax document provided at point of purchase. The initial bill of sale is that issued by the dealer to the initial purchaser of a new vehicle.~~

~~(4) For buses manufactured in model year 2006 and after, the amount of excise tax due is based on the purchase price in the original year of title rather than on the list price. Verification of purchase price for the application of excise tax is determined by the initial bill of sale or the state sales tax document provided at point of purchase. The initial bill of sale is that issued by the dealer to the initial purchaser of a new vehicle.~~

~~(5) For trucks or truck tractors registered for more than 26,000 pounds that have been reconstructed using a prepackaged kit that may include a frame, front axle or body but does not include a power train or engine and for which a new certificate of title is required to be issued, the amount of excise tax due is based on the maker's list price of the prepackaged kit.~~

For motor vehicles being registered pursuant to Title 29-A, section 405, subsection 1, paragraph C, the excise tax must be prorated for the number of months in the registration.

**Sec. 3. 36 MRSA §1482, sub-§4**, as amended by PL 2013, c. 263, §2, is further amended to read:

**4. Maker's list price.** The maker's list price of a vehicle to be used must be obtained from sources approved by the State Tax Assessor, ~~except for a truck or truck tractor described under subsection 1, paragraph C, subparagraph (5).~~ When the maker's list price of a vehicle is not readily obtainable the State Tax Assessor shall prescribe the maker's list price to be used or the manner in which the maker's list price is determined.

A. At the time of payment of the excise tax prior to a new registration for a new passenger vehicle purchased from a motor vehicle dealer licensed in any state for the sale of new passenger vehicles, the owner shall submit the manufacturer's suggested retail price sticker, or a copy of the sticker, to the excise tax collector. In the case of rental and fleet vehicles, other documentation may be provided at the discretion of the municipal excise tax collector. This paragraph applies only to those vehicles for which a manufacturer's suggested retail price sticker is required by the Federal Government.

# AN ACT TO PROHIBIT LOCAL SALES TAXES

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

Sec. 1. 36 MRSA §1821 is enacted to read:

**§ 1821. Municipal local option sales tax**

1. Municipal option sales tax are preempted by state law and prohibited.

# AN ACT TO PROMOTE PHILANTHROPY

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

Sec. 1. 36 MRSA §5125, sub-§4 is enacted to read:

**4. Limitation.** The total itemized deductions from Maine adjusted gross income claimed on a return may not exceed \$28,350, except the limitation does not apply to medical and dental expenses included in an individual's itemized deductions from federal adjusted gross income or charitable contributions.

# AN ACT TO REFORM REVENUE SHARING AND PROMOTE LOCAL PROPERTY TAX RELIEF

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

**Sec. 1. 5 MRSA §13090-K, sub-§2**, as amended by PL 2015, c. 267, Pt. 0000, §1 and affected by §7, is further amended to read:

**2. Source of fund.** Beginning July 1, 2003 and every July 1st thereafter, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% of the 7% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 or Title 30-A, section 5681-A, subsection 5, except that, from October 1, 2013 to December 31, 2015, the amount is equivalent to 5% of the 8% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811 and beginning July 1, 2016 the amount is equivalent to 5% of the 8% tax and 5% of the 9% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811. Beginning on October 1, 2003 and every October 1st thereafter, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to 5% of the 7% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund, except that, from October 1, 2013 to December 31, 2015, the amount is equivalent to 5% of the 8% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811 and beginning October 1, 2016 the amount is equivalent to 5% of the 8% tax and 5% of the 9% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

**Sec. 2. 20-A MRSA §1310, sub-§6**, as repealed and replaced by PL 2003, c. 212, §1, is amended to read:

**6. Enforcement.** If a municipal treasurer fails to pay the installment due, or any part, on the dates required, to initiate collection procedures, the treasurer of the school administrative district may notify the municipal treasurer of the failure to pay. Interest accrues on each unpaid installment at the rate established under Title 36, section 186 beginning on the 60th day after the date the installment is due under subsection 4. If payment of an installment is not made within 60 days after the due date, the treasurer of the district may initiate an action in Superior Court to compel payment of the delinquent installment. The court shall determine the amount owed by the municipality to the district and shall order the municipal treasurer to pay all delinquent installments, accrued interest and any court costs and reasonable attorney's fees incurred by the district. To ensure prompt payment of the delinquent installments, the court may require that amounts due to the municipality from the State under Title 30-A, section 5681 or Title 30-A, section 5681-A and Title 36, sections 578 and 685 be paid to the district until the amount determined by the court is

satisfied. The court shall promptly notify the disbursing state agency of the determination and direct the agency to make the required change in payee and the amounts to be paid. If additional funds are needed to satisfy the amount determined by the court to be paid to the district, the court may order the attachment or trustee process and sale of real or personal property owned by the municipality or the attachment of the municipality's bank accounts or require property tax payments to the municipality to be turned over to the court and may pay the amount owed the district from the proceeds and return any excess to the municipality.

**Sec. 3. 20-A MRSA §1489, sub-§6**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

**6. Enforcement.** If a municipal treasurer fails to pay the installment due, or any part, on the dates required, to initiate collection procedures, the treasurer of the regional school unit may notify the municipal treasurer of the failure to pay. Interest accrues on each unpaid installment at the rate established under Title 36, section 186 beginning on the 60th day after the date the installment is due under subsection 4. If payment of an installment is not made within 60 days after the due date, the treasurer of the regional school unit may initiate an action in Superior Court to compel payment of the delinquent installment. The court shall determine the amount owed by the municipality to the regional school unit and shall order the municipal treasurer to pay all delinquent installments, accrued interest and any court costs and reasonable attorney's fees incurred by the regional school unit. To ensure prompt payment of the delinquent installments, the court may require that amounts due to the municipality from the State under Title 30-A, section 5681 or Title 30-A, section 5681-A and Title 36, sections 578 and 685 be paid to the regional school unit until the amount determined by the court is satisfied. The court shall promptly notify the disbursing state agency of the determination and direct the agency to make the required change in payee and the amounts to be paid. If additional funds are needed to satisfy the amount determined by the court to be paid to the regional school unit, the court may order the attachment or trustee process and sale of real or personal property owned by the municipality or the attachment of the municipality's bank accounts or require property tax payments to the municipality to be turned over to the court and may pay the amount owed the regional school unit from the proceeds and return any excess to the municipality.

**Sec. 4. 20-A MRSA §1703, sub-§6**, as repealed and replaced by PL 2003, c. 212, §2, is amended to read:

**6. Enforcement.** If a municipal treasurer fails to pay the installment due, or any part, on the dates required, to initiate collection procedures, the treasurer of the community school district may notify the municipal treasurer of the failure to pay. Interest accrues on each unpaid installment at the rate established under Title 36, section 186 beginning on the 60th day after the date the installment is due under subsection 4. If payment of an installment is not made within 60 days after the due date, the treasurer of the district may initiate an action in Superior Court to compel payment of the delinquent installment. The court shall determine the amount owed by the municipality to the district and shall order the municipal treasurer to pay all delinquent installments, accrued interest and any court costs and reasonable attorney's fees incurred by the district. To ensure prompt payment of the delinquent installments, the court may require that amounts due to the municipality from the State under Title 30-A, section 5681 or Title 30-A, section 5681-A and Title 36, sections 578 and 685 be paid to the district until the amount determined by the court is satisfied. The court

shall promptly notify the disbursing state agency of the determination and direct the agency to make the required change in payee and the amounts to be paid. If additional funds are needed to satisfy the amount determined by the court to be paid to the district, the court may order the attachment or trustee process and sale of real or personal property owned by the municipality or the attachment of the municipality's bank accounts or require property tax payments to the municipality to be turned over to the court and may pay the amount owed the district from the proceeds and return any excess to the municipality.

**Sec. 5. 21-A MRSA §1124, sub-§2, ¶B**, as amended by IB 2015, c. 1, §14, is further amended to read:

B. Three million dollars of the revenues from the taxes imposed under Title 36, Parts 3 and 8 and credited to the General Fund, transferred to the fund by the State Controller on or before January 1st of each year, beginning January 1, 1999. These revenues must be offset in an equitable manner by an equivalent reduction in tax expenditures as defined in Title 36, section 199-A, subsection 2. This section may not affect the funds distributed to the Local Government Fund under Title 30-A, section 5681 or Title 30-A, section 5681-A.

**Sec. 6. 30-A MRSA §5681, sub-§§9 and 10** are enacted to read:

**9. Limitation.** This section applies to the calculation of state-municipal revenue sharing for fiscal years beginning before July 1, 2024.

**10. Repeal.** This section is repealed September 1, 2024.

**Sec. 7. 30-A MRSA §5681-A** is enacted to read:

**§ 5681-A. State-municipal revenue sharing; fiscal years on or after July 1, 2024**

**1. Findings and purpose.** The Legislature finds that:

A. The principal problem of financing municipal services is the burden on the property tax; and

B. To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the broad-based taxes of State Government.

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Adjusted property tax burden" means the property tax burden of a municipality multiplied by the property tax burden adjustment factor for the municipality.

B. "Population" means the population as determined by the latest Federal Decennial Census or the population as determined and certified by the Department of Health and Human Services, whichever is later. For the purposes of this section, the Department of Health and Human Services shall determine the population of each municipality at least once every 2 years. For the purposes of the distributions required by this section, "population" means the most current population data available as of the January 1st prior to the fiscal year of distribution.

C. "Property tax burden" means the total real and personal property taxes assessed in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State and reduced by 0.01.

D. "Property tax burden adjustment factor" for a municipality means one divided by a fraction equal to the property tax burden of the municipality divided by the average property tax burden for that municipality over the preceding 5 years.

E. "Statewide average property tax rate" means the total real and personal property taxes assessed in all municipalities in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the total latest state valuation certified to the Secretary of State.

**3. Revenue-sharing funds.** To strengthen the state-municipal fiscal relationship pursuant to the findings and objectives of subsection 1, there is established the Local Government Fund.

**4. Distribution of Local Government Fund.** The Treasurer of State shall transfer the balance in the Local Government Fund on the 20th day of each month. Money in the Local Government Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the adjusted property tax burden of the municipality.

**5. Transfers to fund.** No later than the 10th day of each month, the State Controller shall transfer to the Local Government Fund 5% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and L, and credited to the General Fund without any reduction, except that for fiscal year 2018-19 the amount transferred is 2% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and L, and credited to the General Fund without any reduction, and except that the postage, state cost allocation program and programming costs of administering state-municipal revenue sharing may be paid by the Local Government Fund.

**6. Plantations and unorganized territory.** For purposes of state-municipal revenue sharing, plantations and the unorganized territory must be treated as if they were municipalities.

**7. Indian territory.** For purposes of state-municipal revenue sharing, the Passamaquoddy Tribe and the Penobscot Nation Indian Territories must be treated as if they were municipalities. In the absence of a levy of real and personal property taxes in either or both Indian territories, the property tax assessment is computed by multiplying the state valuation for the Indian territory for the period for which revenue sharing is being determined by the most current average equalized property tax rate of all municipalities in the State at that time as determined by the State Tax Assessor.

**8. Posting of revenue-sharing projections.** For the purpose of assisting municipalities in a timely manner in their budget development process and in the determination of their property tax levy limits as required by section 5721-A, the Treasurer of State shall post no later than April 15th of each year on the Treasurer of State's website the projected revenue-sharing distributions as required by this section according to the most recently issued state revenue forecasts issued by the Revenue Forecasting Committee pursuant to Title 5, chapter 151-B for the subsequent fiscal year beginning on July 1st.

**9. Application.** This section applies to the distribution of state-municipal revenue sharing for fiscal years beginning on or after July 1, 2024.

**Sec. 8. 36 MRSA §208-A, sub-§1**, as amended by PL 2013, c. 368, Pt. O, §2 and affected by §11; c. 385, §§1 and 3; and c. 544, §§6 and 7, is further amended to read:

**1. Request for adjustment.** A municipality that has experienced a sudden and severe disruption in its municipal valuation may request an adjustment to the equalized valuation determined by the State Tax Assessor under section 208 for the purposes of calculating distributions of education funding under Title 20-A, chapter 606-B and state-municipal revenue sharing under Title 30-A, section 5681 or Title 30-A, section 5681-A. A municipality requesting an adjustment under this section must file a petition, with supporting documentation, with the State Tax Assessor by March 31st of the year following the tax year in which the sudden and severe disruption occurred and indicate the time period for which adjustments to distributions are requested under subsection 5.

**Sec. 9. 36 MRSA §685, sub-§4, ¶B**, as amended by PL 2009, c. 571, Pt. MM, §1 and affected by §2, is further amended to read:

B. A municipality claiming reimbursement under this section shall submit a claim to the bureau by November 1st of the year in which the exemption applies or within 30 days of commitment of taxes, whichever occurs later. The bureau shall review the claims and determine the total amount to be paid. The bureau shall certify and the Treasurer of State shall pay by July 15th of the year following the year in which the exemption applies the difference between the estimated payment issued and the amount that the bureau finally determines for the year in which the exemption applies. If the total amount of reimbursement to which a municipality is entitled is less than the amount received under paragraph A, the municipality shall repay the excess to the State by December 30th of that year, or the amount may be offset against the amount of state-municipal revenue sharing due the municipality under Title 30-A, section 5681 or Title 30-A, section 5681-A.

**Sec. 10. 36 MRSA §699, sub-§2**, as enacted by PL 2005, c. 623, §1, is amended to read:

**2. Intent.** It is the intent of the Legislature to fund fully transfers to the Disproportionate Tax Burden Fund or the Local Government Fund under section

700-A, subsection 1 and reimbursements under the business equipment tax reimbursement program under section 6652, subsection 4, paragraph B.

**Sec. 11. 36 MRSA §700-A, sub-§1**, as enacted by PL 2005, c. 623, §1, is amended to read:

**1. Transfers to Local Government Fund.** Pursuant to section 699, subsection 2 and in order to provide additional compensation to municipalities affected by property tax exemptions provided under this subchapter, the Treasurer of State shall ~~make the following transfer~~ transfer \$4,000,000 in each fiscal year as provided in section 700-B to the Disproportionate Tax Burden Fund established in Title 30-A, section 5681, subsection 3; except that, for fiscal years beginning on or after July 1, 2024, the transfer must be made to the Local Government Fund established in Title 30-A, section 5681-A, subsection 3.

A. ~~In fiscal year 2009-10, \$2,000,000;~~

B. ~~In fiscal year 2010-11, \$2,500,000;~~

C. ~~In fiscal year 2011-12, \$3,000,000;~~

D. In fiscal year ~~2012-13~~, ~~\$3,500,000~~; and

E. In fiscal year ~~2013-14~~ and subsequent fiscal years, ~~\$4,000,000~~.

**Sec. 12. 36 MRSA §714**, as amended by PL 1987, c. 737, Pt. C, §§78 and 106 and PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**§ 714.State-municipal revenue sharing aid**

The assessors shall deduct from the total amount required to be assessed an amount equal to the amount that the municipal officers estimate will be received under Title 30-A, section 5681 or Title 30-A, section 5681-A, during the municipal fiscal year.

**Sec. 13. 36 MRSA §1815**, sub-§2, as enacted by PL 1999, c. 477, §1, is amended to read:

**2. Monthly transfer.** By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under this Part in the previous month on sales occurring on the Passamaquoddy reservation at either Pleasant Point or Indian Township reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681 or Title 30-A, section 5681-A. When notified by the assessor, the State Controller shall transfer that amount to the Passamaquoddy Sales Tax Fund.

**Sec. 14. 36 MRSA §2559**, as amended by PL 2015, c. 300, Pt. A, §35, is further amended to read:

**§ 2559.Application of revenues**

Revenues derived by the tax imposed by this chapter must be credited to a General Fund suspense account. On or before the last day of each month, the State Controller shall transfer a percentage of the revenues received by the State Tax Assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs A to F and L to the Local Government Fund as provided by Title 30-A, section 5681, subsection 5 or Title 30-A, section 5681-A, subsection 5. The balance remaining in the General Fund suspense account must be transferred to service provider tax General Fund revenue. On or before the 15th day of each month, the State Controller shall transfer all revenues received by the assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs G to J and M to the Medical Care Services Other Special Revenue Funds account, the Other Special Revenue Funds Mental Health Services - Community Medicaid program, the Medicaid Services - Adult Developmental Services program and the Office of Substance Abuse - Medicaid Seed program within the Department of Health and Human Services.

# RESOLVE, ESTABLISHING THE MAINE AGENCY AUDIT

**Whereas**, this resolve establishes the Maine State Agency Audit requirements; and

**Whereas**, Mainers want to know that their tax dollars are being efficiently spent; and

**Whereas**, there currently not a mechanism in place to require Maine agencies to go through an independent audit on a regular basis; and

**Whereas**, in the judgment of the Legislature, these facts create a need to establish a agency audit process and requirements; now, therefore, be it

**RESOLVED**. By the People of Maine the Following:

**RESOLVED**. Every state agency shall conduct an independent audit to ensure there is not any waste, fraud or abuse of tax dollars.

**RESOLVED**. After such audit has been conducted, the state agency shall submit a plan to the Maine legislature to reduce its regulatory burden by 25%.

**RESOLVED**. This shall be done at least once every 10 years and shall be subject of the vote of the Maine Legislature.

# AN ACT TO RESTORE LEGISLATIVE OVERSIGHT OF CRIMINAL CODE

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

## Sec. 1 17-A MRSA

### §1 Title; effective date; severability

1. Title 17-A shall be known and may be cited as the Maine Criminal Code. When it is alleged that an element occurred "on or about" any date prior to the effective date of the code, the prosecution shall be governed by the prior law. When it is alleged that all of the elements occurred "on or about" the effective date of the code or any date thereafter, the prosecution shall be governed by the code.

[PL 1975, c. 740, §9-A (RPR).]

2. Except as provided in section 4-A, this code shall become effective May 1, 1976, and it shall apply only to crimes committed subsequent to its effective date. Prosecution for crimes repealed by this code, which are committed prior to the effective date shall be governed by the prior law which is continued in effect for that purpose as if this code were not in force; provided that in any such prosecution the court may, with the consent of the defendant, impose sentence under the provisions of the code. In such cases, the sentencing authority of the court is determined by the application to the prior law of section 4-A, subsection 3, which became effective for this purpose May 1, 1976. For purposes of this section, a crime was committed subsequent to the effective date if all of the elements of the crime occurred on or after that date; a crime was not committed subsequent to the effective date if any element thereof occurred prior to that date, or if the evidence may reasonably be interpreted to establish that any element may have occurred prior to that date.

[PL 1981, c. 324, §1 (AMD).]

3. If any provision or clause of this code or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are declared to be severable.

4. All rulemaking conducted under title 17-A, the Maine Criminal Code, shall be major substantive

# AN ACT TO PROMOTE REHABILITATION OVER INCARCERATION FOR MINOR DRUG POSSESSION

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

**Sec. 1. 17-A MRSA §1106-A, sub-§2**, as amended by PL 2001, c. 383, §125 and affected by §156, is repealed.

**Sec. 2. 17-A MRSA §1107-A**, as amended by PL 2019, c. 12, Pt. B, §§8 and 9, is repealed and the following enacted in its place:

## **§1107-A. Unlawful possession of scheduled drugs**

Unless otherwise specified, possession of a schedule W, X, Y or Z drug is a civil violation for which a fine of up to \$100 may be adjudged. If a person in violation of this section is unable to pay the fine, as an alternative sentence in place of the fine the court may refer the person to a licensed health care provider or drug treatment facility or program provider to conduct an evidence-based assessment for proposed treatment appropriate for a person with substance use disorder as defined in Title 5, section 20003, subsection 17-A.

**Sec. 3. 17-A MRSA §1111-B**, as enacted by PL 2019, c. 137, §1 and amended by c. 292, §1, is further amended to read:

## **§1111-B. Exemption from criminal liability for reporting a drug-related medical emergency or administering naloxone**

A person who in good faith seeks medical assistance for or administers naloxone hydrochloride to another person experiencing a drug-related overdose or who is experiencing a drug-related overdose and is in need of medical assistance may not be arrested or prosecuted for a violation of section ~~1107-A~~, 1108, 1111 or 1111-A or a violation of probation as authorized by chapter 49 if the grounds for arrest or prosecution are obtained as a result of the person's seeking medical assistance, administering naloxone hydrochloride or experiencing a drug-related overdose.

**Sec. 4. 17-A MRSA §1126, sub-§1**, as enacted by PL 2019, c. 113, Pt. B, §17, is amended to read:

**1. Fine based on value of scheduled drugs at time of offense.** As authorized by section 1706, subsection 3, if the State pleads and proves the value at the time of the commission of a crime of a scheduled drug that is the basis for a conviction under section 1103, 1105-A, 1105-B, 1105-C, 1105-D; or ~~or~~ 1106 ~~or 1107-A~~, the convicted person may be sentenced to pay a fine in an amount up to the value, as pleaded and proved by the State, of that scheduled drug.

**Sec. 5. 17-A MRSA §1126, sub-§2**, as enacted by PL 2019, c. 113, Pt. B, §17, is amended to read:

## **2. Mandatory minimum fine barring court finding exceptional circumstances.**

In addition to any other authorized sentencing alternative specified in section 1502, subsection 2 for individuals or section 1502, subsection 7 for organizations, the court shall impose a minimum fine of

\$400, none of which may be suspended, except as provided in subsection 3, for an individual convicted of a crime under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; ~~1107-A~~; 1108; 1109; 1110; 1111; 1111-A, subsection 4-A; 1116; 1117; or 1118.

**Sec. 6. 17-A MRSA §1902, sub-§5**, as enacted by PL 2019, c. 113, Pt. A, §2, is repealed.

# AN ACT TO INCREASE THE PENALTY FOR SEX TRAFFICKING

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

## Sec. 1 MRSA 17-A

### §852. Aggravated sex trafficking

1. A person is guilty of aggravated sex trafficking if the person knowingly:

A. Promotes prostitution by compelling a person to enter into, engage in or remain in prostitution; [PL 2013, c. 407, §2 (AMD).]

B. Promotes prostitution of a person 15, 16 or 17 years of age; or [PL 2021, c. 469, §1 (AMD).]

C. Promotes prostitution of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved. [PL 2013, c. 407, §2 (NEW).]

Violation of this subsection is a Class B A crime.

# AN ACT TO RESTORE LEGISLATIVE OVERSIGHT OF DOE RULES

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

## Sec. 1 20-A MRSA

### §3. Administrative procedures

The adopting of rules, conducting of adjudicatory hearings and issuing of licenses by the state board, department or commissioner shall be in accordance with the Maine Administrative Procedure Act, , except as specified in this Title. All rulemaking conducted by the Department under Title 20-A shall be major substantive.

# AN ACT TO PROTECT SPEECH AND PRESS ON CAMPUS

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

Sec. 1. 20-A MRSA c. 408 is enacted to read:

## CHAPTER 408

### CAMPUS FREE SPEECH AND FREE PRESS ACT

#### **§10601. Short title**

This chapter may be known and cited as "the Campus Free Speech and Free Press Act."

#### **§10602. Free speech policy statement**

**1. Free speech policy statement; required contents.** Each public institution of higher education shall adopt a free speech policy statement that contains, at a minimum:

A. That the institution is committed to free and open inquiry in all matters and guarantees all members of the institution's community, including all the staff and students, the broadest possible latitude to speak, write, listen, challenge and learn;

B. That the institution fully respects and supports the freedom of all members of the institution's community to discuss any problem that presents itself;

C. That it is not the proper role of the institution to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable or even deeply offensive. Although the institution greatly values civility and although all members of the institution's community share the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of the institution's community;

D. That the institution's fundamental commitment is to the principle that debate and deliberation may not be suppressed because the ideas put forth are thought by some to be offensive, unwise, immoral or wrongheaded. It is for the individual members of the institution's community, not for the institution, to make those judgments for themselves and to act on those judgments, not by seeking to suppress speech but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the institution's community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the institution's education mission; and

E. That the institution expects members of the institution's community to act in conformity with the principle of free speech. Although members of the institution's community are free to criticize and contest the views expressed on campus and to criticize and contest speakers who are invited to express their views on campus, they may not intentionally, materially and substantially disrupt another's freedom to express that person's views, even views they reject or loathe. To this end, the institution has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation but also to protect that freedom when others attempt to restrict it.

**2. Public institution of higher education defined.** As used in this chapter, unless the context otherwise indicates, "public institution of higher education" or "institution" means any campus of the Maine Community College System, any campus of the University of Maine System and the Maine Maritime Academy.

### **§10603. Right to use campus for free speech activities**

**1. Protected expressive activities.** Expressive activities protected under the provisions of this Act include, but are not limited to, all forms of peaceful assembly, protests, speeches, distribution of literature, carrying signs, circulating petitions and the lawful recording and publication, including Internet publication, of audio and video recorded in public outdoor areas of public institutions of higher education.

**2. Traditional public forum; reasonable restrictions.** The publicly accessible outdoor areas of public institutions of higher education must be treated as traditional public fora. In those areas, public institutions of higher education may maintain and enforce reasonable time, place and manner restrictions in service of a significant institutional interest only when such restrictions employ clear, published, content-neutral and viewpoint-neutral criteria and provide for ample alternative means of expression. Any such restrictions must provide for opportunities for members of the institution's community to spontaneously and contemporaneously distribute literature and assemble.

**3. Noncommercial expressive activity; no "free speech zone."** Any person who wishes to engage in noncommercial expressive activity at a public institution of higher education must be permitted to do so freely, as long as the person's conduct is not unlawful, subject to the restrictions permitted under subsection 2. A public institution of higher education may not designate any area of its campus as a "free speech zone" or otherwise create policies restricting expressive activities to particular areas of campus.

**4. Security fees.** A public institution of higher education may require a permit for any individual or group that wants to reserve a campus location and exercise exclusive control over that location during the time of the reservation. A public institution of higher education may charge a security fee to a student organization or student group as part of an application for those activities that require a permit, but a public institution of higher education may not charge security fee to a student or student group based on the content of the expression of the student or student group, the content of the expression of an invited guest or the anticipated reaction to the student's, student group's or invited guest's expression. Whether a permit is approved and whether the security fee is required and its amount may be determined only on the basis of content-neutral and viewpoint-neutral criteria. Examples of content-neutral and viewpoint-neutral criteria include: the time of the event; the location of the event; the anticipated size of the invited audience; and whether alcohol will be served. An institution charging security fees pursuant to this subsection shall publish the criteria it uses for assessing those fees, and it must provide a fee waiver process for individuals and organizations that lack an ability to pay.

**5. No right to disrupt.** Nothing in this Act grants students, faculty or staff of the institution the right to intentionally materially and substantially disrupt previously scheduled or reserved activities or to use physical force or violence against a person, physical obstruction or damage or destruction of property or the threat of physical force or violence against a person, of physical obstruction or of damage or destruction of property to interfere with another's freedom to express that person's views, even views they reject or loathe.

**6. Right of student expression.** Nothing in this Act may be interpreted as limiting the right of student expression in areas other than as specified in subsection 1.

#### **§10604. Campus free press protections**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "School-sponsored media" means any materials that are prepared, substantially written, published or broadcast, in any medium, by a student journalist at a public institution of higher education under the direction of a student media advisor and distributed or generally made available to members of the student body. "School-sponsored media" does not include media intended for distribution or transmission for classroom purposes only.

B. "Student journalist" means a student at a public institution of higher education who gathers, compiles, writes, edits, photographs, records or prepares information for inclusion in school-sponsored media.

C. "Student media advisor" means an individual employed, appointed or designated by a public institution of higher education to supervise or provide instruction relating to school-sponsored media.

**2. Freedom of speech and press in school-sponsored media.** Except as provided in paragraph A, a student journalist has the right to exercise freedom of speech and freedom of the press in school-sponsored media regardless of whether the medium is supported financially by the school or uses the facilities of the school or if the material is produced in conjunction with a course or class in which the student is enrolled. Subject to paragraph A, a student journalist is responsible for determining the news, opinions, feature and advertising content of school-sponsored media. Student media advisors may teach professional standards of English and journalism to student journalists, consistent with this subsection.

A. This section does not authorize or protect expression by a student journalist that violates federal or state law.

B. Material prepared for school-sponsored media may not be subject to prior restraint except insofar as the material violates the standards of paragraph A. Institution officials have the burden of showing prior justification for any limitation of student journalist expression under this section and shall afford a student journalist a timely opportunity for appeal.

C. A student journalist may not be disciplined for acting in accordance with this section.

D. A student media advisor may not be dismissed, suspended, disciplined, reassigned, transferred or otherwise retaliated against for:

(1) Refusing to infringe on conduct that is protected by this section or the First Amendment of the United States Constitution or Article I, Section 4 of the Constitution of Maine; or

(2) Acting to protect a student journalist engaged in permissible conduct under this section or the First Amendment of the United States Constitution or Article I, Section 4 of the Constitution of Maine.

E. Each public institution of higher education shall adopt a written policy for the exercise of the right of student journalists to freedom of speech and freedom of the press in school-sponsored media in accordance with this section. The policy must include reasonable provisions for the time, place and

manner of distribution of student expression consistent with section 10603. The policy must include a provision allowing for the timely appeal within the institution of decisions made pursuant to this section.

F. An expression made by a student journalist in the exercise of free speech or free press may not be deemed an expression of institution policy, and no institution official or institution may be held responsible in any civil or criminal action for any expression made or published by a student journalist.

G. A student journalist or student media advisor may file a complaint against a public institution of higher education and its agents acting in their official capacities for injunctive or declaratory relief in the Superior Court to enforce the rights provided by this section. This paragraph may not be construed to create a private right of action on behalf of a student journalist other than to seek injunctive relief allowing the publication of the student expression in question. A court may award reasonable attorney's fees to a plaintiff that substantially prevails.

#### **§10605. Policy; training and education**

**1. Responsibility for discipline and education.** Each public institution of higher education shall develop training materials, programs and procedures to ensure that those persons who have responsibility for discipline or education of students, including but not limited to administrators, campus police officers, residence life officials and professors, understand the policies, regulations and duties of public institutions of higher education regarding free expression on campus, academic freedom, freedom of the press and other constitutional rights applicable in the collegiate setting.

**2. Students.** Each public institution of higher education shall develop materials, programs and procedures to educate students on the policies, regulations and duties of public institutions of higher education regarding free expression on campus, academic freedom, freedom of the press and other constitutional rights applicable in the collegiate setting.

#### **§10606. Cause of action**

**1. Plaintiffs.** The following persons may file a complaint in the Superior Court against a public institution of higher education and its agents acting in their official capacities to enjoin a violation of this Act and to recover compensatory damages, reasonable costs and attorney's fees:

A. The Attorney General; and

B. Persons whose expressive rights were violated through the violation of this Act.

**2. Damages.** In an action brought under this section, if the court finds a violation of this Act, the court shall award the plaintiff not less than \$500 for the initial violation plus \$50 for each day the violation remains ongoing, which accrues starting on the day after the complaint is served on the public institution of higher education. The total damages, excluding court costs and attorney's fees, available to a plaintiff or plaintiffs, in a case or cases stemming from a single controversy, may not exceed the actual damages incurred by the plaintiff or plaintiffs or \$100,000 in total, whichever is greater. When a violation harms multiple plaintiffs, the court shall divide the damages equitably among the plaintiffs until the maximum award, if available, is exhausted.

**3. One-year limitation period.** A person must bring suit for a violation of this Act no later than one year after the day the cause of action accrues. For purposes of calculating the one-year limitation period, each day that the violation of this Act persists and each day that a policy in violation of this Act remains in effect constitutes a new violation of this Act and, therefore, a new day that the cause of action has accrued.

# AN ACT TO RESTORE THE RIGHTS OF MAINE SCHOOL CHILDREN

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

Sec. 1. 17 MRSA , sub-§2, ¶A, as enacted by PL 1977, c. 410, §2,  
is amended to read:

A. This section shall not apply to any noncommercial ~~distribution or exhibition for purely educational purposes by any library, art gallery, museum, public school, private school or institution of learning,~~  
~~nor to any~~ or commercial distribution or exhibition by any art gallery or museum.

# AN ACT TO RESTORE LEGISLATIVE OVERSIGHT OF DEP RULES

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

## Sec. 1. 35-A MRSA

### §101. Statement of purpose

The purpose of this Title is to ensure that there is a regulatory system for public utilities in the State and for other entities subject to this Title that is consistent with the public interest and with other requirements of law and to provide for reasonable licensing requirements for competitive electricity providers. The basic purpose of this regulatory system as it applies to public utilities subject to service regulation under this Title is to ensure safe, reasonable and adequate service, to assist in minimizing the cost of energy available to the State's consumers, to ensure that the rates of public utilities subject to rate regulation are just and reasonable to customers and public utilities and to reduce greenhouse gas emissions to meet the greenhouse gas emissions reduction levels set forth in Title 38, section 576-A. All rulemaking conducted under title 35-A and Title 38 shall be major substantive

# AN ACT TO PROMOTE INNOVATION AND INTERNET ACCESS

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

Sec. 1. 5 MRSA §12004-G, sub §33-G is amended to read:

## General government

### 33-G.

Treasurer of State	Maine Retirement Savings Board	Legislative Per Diem and Expenses	5 MRSA §172
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[PL 2021, c. 356, §2 (NEW).]

*REVISOR'S NOTE: (Subsection 33-G as enacted by PL 2021, c. 364, §1 is REALLOCATED TO TITLE 5, SECTION 12004-G, SUBSECTION 33-H)*

### ~~33-H. (REALLOCATED FROM T. 5, §12004-G, sub-§33-G)~~

Technology	Maine Connectivity Authority	Not Authorized	<del>35-A MRSA §9404</del>
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~~[PL 2021, c. 364, §1 (NEW); RR 2021, c. 1, Pt. A, §5 (RAL).]~~

# AN ACT TO RESTORE RELIGIOUS AND PHILOSOPHICAL EXEMPTIONS FOR IMMUNIZATION REQUIREMENTS

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

**Sec. 1. 20-A MRSA §6355, sub-§3-A** is enacted to read:

**3-A. Religious exemption.** The parent states in writing a sincere religious belief that is contrary to the immunization requirement of this subchapter.

**Sec. 2. 20-A MRSA §6355, sub-§4**, as enacted by PL 2019, c. 154, §3, is amended to read:

**4. Student covered by individualized education plan.** A student covered by an individualized education plan on September 1, 2023 who elected a philosophical ~~or religious~~ exemption from immunization requirements on or before September 1, 2023 pursuant to the law in effect prior to that date may continue to attend school under that student's existing exemption as long as:

A. The parent or guardian of the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or

B. If the student is 18 years of age or older, the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize.

**Sec. 3. 20-A MRSA §6359, sub-§3, ¶C** is enacted to read:

C. The student or the parent, if the student is a minor, states in writing a sincere religious belief that is contrary to the immunization requirement of this subchapter.

**Sec. 4. 22 MRSA §802, sub-§4-B, ¶B-1** is enacted to read:

B-1. A religious exemption is available to an employee who states in writing a sincere religious belief that is contrary to the immunization requirement of this subchapter.

**Sec. 5. 22 MRSA §8402, sub-§3, ¶A**, as amended by PL 2019, c. 154, §10 and affected by §12, is further amended to read:

A. The department shall adopt rules regarding the health of staff as required to protect the health and safety of the children. The rules must include a requirement that every 2 years each licensee, administrator or other staff member of the nursery school who provides care for children be declared free from communicable disease by a licensed physician, nurse practitioner or physician assistant, except that this requirement may be waived for a person who objects on the grounds of sincerely held religious belief. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 1. 20-A MRSA §2, sub-§1**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. State responsibility for public education. In accordance with the Constitution of Maine, Article VIII, the Legislature shall enact the laws that are necessary to assure that all school administrative units make suitable provisions for the support and maintenance of the public schools and the education of every person within the age limitations prescribed by state statutes who resides in the school administrative unit.

It is the intent of the Legislature that every person within the age limitations prescribed by state statutes shall be provided an opportunity to receive the benefits of a free public education.

**Sec. 2. 20-A MRSA §6355**, sub-§5 is enacted to read:

5. Virtual public charter schools and private schools. The student is enrolled in or attends a virtual public charter school as defined in section 2401, subsection 11 or a private school.

# AN ACT TO REFORM MAINE'S OUTDATED OCCUPATIONAL LICENSING REGIME

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

Sec. 1. 32 MRSA c. 147 is enacted to read:

## CHAPTER 147

### OCCUPATIONAL LICENSE PORTABILITY

#### **§18601. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Board.** "Board" means a government agency, board, department or other governmental entity in this State or another state that regulates a lawful occupation and issues an occupational license or government certification to a person.

**2. Government certification.** "Government certification" means a voluntary, government-granted and nontransferable recognition to a person who meets personal qualifications and standards related to a lawful occupation that allows the individual to use "government certified" or "state certified" as a title. "Government certification" does not include an occupational license or other credentials that are prerequisites to performing a lawful occupation.

**3. Lawful occupation.** "Lawful occupation" means a course of conduct, pursuit or profession that includes the sale of goods or services that are not themselves unlawful to sell, irrespective of whether the person selling them is subject to an occupational license.

**4. Occupational license.** "Occupational license" means a nontransferable legal authorization that is required for a person to perform a lawful occupation and that is based on the person's meeting the qualifications established or administered by a board.

**5. Other state or another state.** "Other state" or "another state" means any United States territory or state in the United States other than this State.

**6. Private certification.** "Private certification" means a voluntary program in which a private organization grants nontransferable recognition to a person who meets personal qualifications and standards relevant to performing an occupation as determined by the private organization and that permits the person to use a designated title of "certified" by the private organization.

**7. Scope of practice.** "Scope of practice" means the procedures, actions, processes and work that a person may perform under an occupational license or government certification issued in this State.

#### **§18602. Occupational license and government certification**

Notwithstanding any provision of law to the contrary, a board in this State shall issue an occupational license or government certification to a person who applies for an occupational license or government certification issued by that board, if the person, as determined by that board, meets all of the requirements of section 18606 and:

**1. Valid license or certification.** The person holds a current and valid occupational license or government certification issued by a board in another state for a lawful occupation with a similar scope of practice to the lawful practice governed by the occupational license or government certification for which the person has applied;

**2. Term.** The person has held the occupational license or government certification issued in the other state for at least one year;

**3. Requirements.** The issuing board in the other state required the person to pass an examination or to meet education, training or experience standards that are substantially similar to those required for the occupational license or government certification for which the person has applied;

**4. Good standing.** The person is in good standing with the issuing board in the other state;

**5. No disqualifications.** The person does not have a criminal record that disqualifies the person from holding the occupational license or government certification for which the person has applied;

**6. Not revoked.** No board in another state has revoked the person's occupational license or government certification because of negligence or intentional misconduct related to the person's work in the lawful occupation in that state;

**7. Not surrendered.** The person has not surrendered an occupational license or government certification because of negligence or intentional misconduct related to the person's work in the lawful occupation in another state;

**8. No complaints.** The person does not have a complaint, allegation or investigation pending before a board in another state that relates to unprofessional conduct or an alleged crime. If the person has a complaint, allegation or investigation pending, the board to which the person has applied may not issue or deny an occupational license or government certification to the person until the complaint, allegation or investigation is resolved or the person otherwise meets the criteria for an occupational license or government certification in this State to the satisfaction of the board; and

**9. Payment of fees.** The person pays all applicable fees for the occupational license or government certification for which the person has applied.

### **§18603. Government certification**

If a board in another state has issued a person a government certification that is equivalent to an occupational license in this State, a board in this State shall issue an occupational license to the person who holds that certification and applies for an occupational license if the person otherwise satisfies the requirements of section 18602.

### **§18604. Work experience**

Notwithstanding any provision of law to the contrary, a board in this State shall issue an occupational license or government certification to a person who applies for an occupational license or government certification issued by that board based on the person's work experience in another state if the person, as determined by that board, meets all of the requirements of section 18606 and:

1. No license or certification requirement. The person worked in a state that does not require an occupational license or government certification to regulate the person's lawful occupation;
2. Time in work. The person worked for at least 3 years in the lawful occupation in the other state; and
3. Other requirements. The person satisfies the requirements of section 18602, subsections 5 to 9.

#### **§18605. Private certification**

Notwithstanding any provision of law to the contrary, a board in this State shall issue an occupational license or government certification to a person who applies for an occupational license or government certification issued by that board based on the person's private certification and work experience in another state if the person, as determined by that board, meets all of the requirements of section 18606 and:

1. No license or certification requirement. The person holds a private certification and worked in a state that does not require an occupational license or government certification in the lawful occupation governed by an occupational license or government certification in this State;
2. Time in work. The person worked for at least 2 years in the lawful occupation in the other state;
3. Current and valid private certification. The person holds a current and valid private certification in the lawful occupation;
4. Good standing. The person is in good standing with the private organization that issued the certification; and
5. Other requirements. The person satisfies the requirements of section 18602, subsections 5 to 9.

#### **§18606. State law examination**

A board in this State may require a person who applies under this chapter for an occupational license or government certification issued by that board to pass an examination that is specific to relevant laws of this State that regulate the lawful occupation if the occupational license or government certification in this State that the person has applied for requires a person to pass such an examination in order to receive the occupational license or government certification.

#### **§18607. Decision**

A board in this State that receives a complete application under this chapter for an occupational license or government certification shall provide the person with a written decision regarding the application within 60 days after receiving the application.

#### **§18608. Appeal**

A person who has applied under this chapter for an occupational license or government certification and been denied by a board may appeal the board's decision by filing a petition for review in Superior Court in accordance with Title 5, chapter 375, subchapter 7 within 30 days after receipt of the board's written decision.

### **§18609. State laws and jurisdiction**

A person who obtains an occupational license or government certification under this chapter is subject to the laws regulating the lawful occupation in this State, including continuing education requirements and the jurisdiction of the issuing board in this State.

### **§18610. Exception**

This chapter does not apply to an occupation regulated by the Supreme Judicial Court.

### **§18611. Limitations**

**1. Within the State.** An occupational license or government certification issued under this chapter is valid only in this State and does not make the person who is issued the occupational license or government certification eligible to work in another state under an interstate compact or reciprocity agreement unless otherwise provided by law.

**2. Compacts.** Nothing in this chapter prevents the State from entering into a licensing compact or reciprocity agreement with another state, foreign province or foreign country.

**3. Foreign credentials.** Nothing in this chapter prevents the State from recognizing occupational credentials issued by a private certification organization, foreign province, foreign country, international organization or other entity.

**4. Private certification.** Nothing in this chapter requires a private certification organization to grant or deny private certification to any person.

### **§18612. Cost**

A board receiving an application for an occupational license or government certification under this chapter may charge a fee to the person who applies to recoup its costs not to exceed \$100 for each application.

### **§18613. Preemption**

No county or municipality in this State may regulate the issuance of occupational licenses or government certifications under this chapter.

Sec. 2. 32 MRSA §60-J is enacted to read:

**14. Good Character.** The evaluation of the character shall not include “good character” clauses.

# AN ACT TO REFORM OUTDATED WAGE LAWS

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

Sec. 1. 26 MRSA § 664 is amended as follows.

## §664. Minimum wage; overtime rate

Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section.

[PL 1995, c. 305, §1 (RPR).]

**1. Minimum wage.** The minimum hourly wage is \$7.50 per hour. Starting January 1, 2017, the minimum hourly wage is \$9.00 per hour; starting January 1, 2018, the minimum hourly wage is \$10.00 per hour; starting January 1, 2019, the minimum hourly wage is \$11.00 per hour; and starting January 1, 2020, the minimum hourly wage is \$12.00 per hour. ~~On January 1, 2021 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢. If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section, the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage, and must be increased in accordance with this section thereafter.~~

Sec. 2. 26 MRSA §664, sub-§1-A is enacted to read:

**1-A. Student and minor wage.** Notwithstanding subsection 1, starting January 1, 2024 an employer may pay an employee who has not attained 20 years of age and is a student at a secondary or postsecondary school and an employee who has not attained 18 years of age a minimum hourly wage of \$9.75. On January 1, 2025 and each January 1st thereafter, the minimum hourly wage then in effect under this subsection must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured as described in subsection 1.

Sec. 3. 26 MRSA § 775 is repealed.

Sec. 4. 26 MRSA § 1303 is repealed.

Sec. 5. 26 MRSA § 1305 is repealed.

Sec. 6. 26 MRSA § 1306 is repealed.

Sec. 7. 26 MRSA § 1307-A is repealed.

Sec. 8. 26 MRSA § 1308 is repealed.

Sec. 9. 26 MRSA § 1309 is repealed.

# AN ACT TO ELIMINATE CERTAIN MOTOR VEHICLE INSPECTIONS

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

**Sec. 1. 10 MRSA §1471, sub-§6-A**, as amended by PL 1995, c. 65, Pt. A, §19 and affected by §153 and Pt. C, §15, is further amended to read:

6-A. Reconstructable motor vehicle. "Reconstructable motor vehicle" means a used motor vehicle that ~~does not meet the inspection standards as set forth in Title 29-A, section 1751, and that is sold, offered for sale or negotiated for sale to a person other than another dealer for the purpose of transportation after repair or rebuilding.~~

**Sec. 2. 10 MRSA §1474, sub-§1**, as amended by PL 1995, c. 65, Pt. A, §20 and affected by §153 and Pt. C, §15, is further amended to read:

**1. Warranty content.** A dealer warrants that the motor vehicle the dealer sells, negotiates the sale of, offers for sale or transfers to a person other than another dealer ~~has been inspected in accordance with met the inspection standards in Title 29-A, section 1751, and with the rules promulgated under that section: 1756.~~

~~A. That the motor vehicle is in the condition and meets the standards required by that law and the rules; or~~

~~B. If the motor vehicle is a reconstructable motor vehicle, that the motor vehicle is in the condition specified in the disclosure statement affixed to the vehicle as required by subsection 4.~~

**Sec. 3. 10 MRSA §1474, sub-§4, ¶G**, as enacted by PL 1985, c. 429, §4, is amended to read:

~~G. In addition to the penalties described in section 1477, any violation of subsection 1, paragraph B, and this subsection shall be is a Class E crime.~~

**Sec. 4. 10 MRSA §1478, sub-§4, ¶A**, as amended by PL 1995, c. 65, Pt. A, §22 and affected by §153 and Pt. C, §15, is further amended to read:

A. In the event that a motor vehicle subject to inspection pursuant to Title 29-A, chapter 15 is submitted by a state agency to the state auction and does not possess a valid inspection certificate that has been issued within 180 days previous to the auction, the motor vehicle is subject to inspection pursuant to Title 29-A, chapter 15. If the motor vehicle passes inspection, a current and valid inspection certificate must be affixed to the vehicle.

**Sec. 5. 29-A MRSA §101, sub-§47-A**, as enacted by PL 2005, c. 577, §6, is amended to read:

**47-A. Off-road vehicle.** "Off-road vehicle" means a motor vehicle that, because of the vehicle's design and configuration, does not meet the inspection standards of chapter 15 or former section 1751 and that is not a moped or motorcycle.

**Sec. 6. 29-A MRSA §458-B, sub-§7**, as amended by PL 2011, c. 139, §3, is repealed.

**Sec. 7. 29-A MRSA §470, sub-§2**, as enacted by PL 2003, c. 125, §1, is amended to read:

**2. ~~Inspection and equipment~~ Equipment.** An experimental motor vehicle is ~~exempt from inspection requirements under section 1751 but~~ must comply with the equipment standards of chapter 17 to include at a minimum: body components, an exhaust system, reflectors, running gear, tires, a horn, lights, directional signals, brakes, a steering mechanism, windshield wipers, safety seat belts and rearview mirrors.

**Sec. 8. 29-A MRSA §517, sub-§1-B**, as enacted by PL 2003, c. 490, Pt. D, §1, is amended to read:

**1-B. Low-speed vehicle.** A low-speed vehicle loaned by a dealer to a municipality is exempt from registration fees and is ~~not subject to inspection pursuant to section 1752~~ but must be registered and must be in compliance with equipment provisions under section 1925.

**Sec. 9. 29-A MRSA §517-A, first ¶**, as enacted by PL 2001, c. 116, §1, is amended to read:

Vehicles owned by an organized veterans group and used exclusively for ceremonial activities, including parades, are exempt from registration requirements and registration fees. ~~These vehicles must be inspected~~ A vehicle for which inspections are required pursuant to chapter 15, subchapter I 1 must be inspected. For purposes of this section, "organized veterans group" means the American Legion, Veterans of Foreign Wars or an organized league of veterans of the United States Marine Corps.

**Sec. 10. 29-A MRSA §525, sub-§4**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**4. Exception.** A farm vehicle or farm truck ~~formerly~~ subject to limited inspection under ~~former~~ section 1752, subsections 2 and 4 is not required to have a fuel use identification decal.

**Sec. 11. 29-A MRSA §1751**, as amended by PL 2001, c. 234, §§1 and 2, is repealed.

**Sec. 12. 29-A MRSA §1752**, as amended by PL 2017, c. 165, §6, is repealed.

**Sec. 13. 29-A MRSA §1753, sub-§4, ¶D**, as amended by PL 2007, c. 348, §3, is further amended to read:

D. A farm truck or a fish truck ~~formerly~~ exempted under ~~former~~ section 1752;

**Sec. 14. 29-A MRSA §1754, sub-§1-A**, as enacted by PL 2011, c. 191, §1, is repealed.

**Sec. 15. 29-A MRSA §1756, sub-§2**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

**Sec. 16. 29-A MRSA §1756, sub-§6**, as enacted by PL 1997, c. 786, §4, is repealed.

**Sec. 17. 29-A MRSA §1756, sub-§7**, as enacted by PL 1997, c. 786, §4, is repealed.

**Sec. 18. 29-A MRSA §1757**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

**Sec. 19. 29-A MRSA §1758, sub-§3**, as amended by PL 2011, c. 167, §2 and affected by §§3 and 7, is further amended to read:

**3. Motorcycles; proof of inspection.** If a motorcycle meets the inspection standard, ~~upon payment of applicable inspection fees pursuant to section 1751, subsection 3~~ A a valid certificate of inspection and an official inspection sticker for the motorcycle must be issued. The certificate of inspection must be kept with the registration certificate of the motorcycle and the official inspection sticker must be affixed to the rear of the motorcycle on the registration plate.

The official inspection sticker must be located so that it is completely and clearly visible from the rear of the motorcycle. If the registration plate is reassigned to another motorcycle pursuant to section 463, subsection 4, the certificate of inspection and the official inspection sticker expire upon reassignment.

**Sec. 20. 29-A MRSA §1762, sub-§8**, as enacted by PL 1997, c. 786, §5, is repealed.

**Sec. 21.** Additional changes to law. The Department of the Secretary of State, Bureau of Motor Vehicles shall submit a bill to the Second Regular Session of the 131st Legislature to make changes in the Maine Revised Statutes to fully abolish inspection requirements for motor vehicles registered in the State, with the exception of inspection requirements for commercial motor vehicles, trailers and semitrailers under Title 29-A, section 1753; inspection of fire trucks under Title 29-A, section 1755; and inspection by dealers and transporters under Title 29-A, section 1754, which must be retained.

# RESOLUTION FOR A CONSTITUTIONAL AMENDMENT TO FUND THE ROADS

**Constitutional amendment. Resolved:** Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

**Constitution, Art. IX, §26** is enacted to read:

**Section 26. Revenues from motor vehicle sales and use taxes.** Beginning in July 2024, about fifty percent of the revenue from the tax imposed on sales of motor vehicles and sales related to motor vehicles must be deposited in the Highway Fund for roads and bridge capital improvements. Beginning in August 2024, and every month thereafter, the State Controller shall transfer to the Highway Fund for roads and bridge capital improvements an amount that is equal to 50% of the revenue from the tax imposed on sales of motor vehicles and sales related to motor vehicles for the previous month. The tax amount must be based on actual sales for that month and may not consider any accruals that may be required by law. The State Tax Assessor shall certify to the State Controller by the 15th day of each month the amounts to be distributed and credited under this section as of the close of the State Controller's records for the previous month.

**Constitutional referendum procedure; form of question; effective date. Resolved:**

That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in November 2024, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation.

**Secretary of State shall prepare ballots. Resolved:**

That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.



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