Request for Proposals

Independent Review of the Essential Programs and Services Funding Act

MRSA Title 20-A, Chapter 606-B

Questions shall be directed to the Office of Program Evaluation and Government Accountability in writing via fax, regular mail, or email. All responses to any questions posed by any entity in receipt of this RFP will be shared with all entities in receipt of the RFP via email (see Section 4 below).

1. OVERVIEW

On behalf of the Maine Legislature, the Legislative Council seeks proposals from qualified research entities (also referred to in this document as bidders) to perform an independent review of education finance policies and practices associated with Maine's Essential Programs and Services (EPS) Funding Act. Qualified research entities are individuals or firms with demonstrated experience conducting independent reviews of state school funding systems, comparisons with other states' systems and subsidy distribution methods.

The selected qualified research entity will be responsible for performing all aspects of the review, providing progress reports and related deliverables, and issuing a Preliminary Phase I Report no later than April 1, 2013 and a Final Phase II Report no later than December 1, 2013 to the Maine Legislature's Joint Standing Committee on Education and Cultural Affairs.

The Office of Program Evaluation and Government Accountability (OPEGA) is the Legislative Council's designee for administering the contract with the selected qualified research entity including monitoring the contractor's performance in meeting deadlines, providing deliverables pursuant to Section 11 below and ensuring compliance with other terms of the contract.

2. PROPOSAL DURATION

The Bidder shall guarantee the proposal terms and prices through November 1, 2012.

3. PROPOSAL SUBMITTAL

a. **Proposal Due Date**

Interested bidders must submit a sealed proposal. Proposals will be accepted until **5:00 p.m. local time**, on August 20, 2012 at which time they will be opened and available for public review. Proposals received after the 5:00 p.m. deadline will not be accepted. The Legislature assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual receipt of the proposal by the Legislative Council.

b. **Mailing/Delivery Instructions**

1. The Bidder must send its proposal in a sealed package including one **original and eight (8) copies** of the complete proposal. Clearly label the original. One electronic copy of the proposal must also be provided on CD or flash drive with the complete narrative and

attachments in MS Word format (2003 or later version). Any attachments that cannot be submitted in MS Word format may be submitted as Adobe (.pdf) files.

2. Address each package as follows (include the Bidder's full business name and address as well as the RFP number and title) and submit to:

Office of Program Evaluation and Government Accountability
Burton M. Cross Building, 1st Floor Room 107
111 Sewall Street
82 State House Station
Augusta ME 04333

Attn: RFP # 201201

c. **Proposal Organization**

The bidder must submit the following as part of its proposal submission and clearly label each section as such (see Section 12 for additional detail).

1. Organization and Project Team Information
2. Approach
3. Implementation Schedule
4. Project Budget and Total Cost

4. PROCEDURE FOR SUBMITTING QUESTIONS & RESPONSES

a. General Instructions

1. It is the responsibility of each bidder to examine the entire RFP and to seek clarification in writing if the bidder does not understand any information or instructions.
2. Bidders must submit questions regarding the RFP in writing to OPEGA as soon as possible, but no later than the date and time specified below in Section 5.
3. Bidders may submit questions by e-mail, fax or regular mail. If faxed, include a cover sheet addressed to OPEGA and indicate the number of pages sent. The Legislature assumes no liability for assuring accurate/complete fax or e-mail transmission and receipt.
4. Include a heading with the RFP Title. Refer to the page number and paragraph within this RFP relevant to the question presented for clarification, if applicable.
5. Send written questions to:

Office of Program Evaluation and Government Accountability
82 State House Station
Augusta, ME 04333-0082
E-mail: schoolfundingactreviewrfp@legislature.maine.gov
Fax: 207-287-1906

b. Written Questions Due

Written questions must be received by the Office of Program Evaluation and Government Accountability no later than 5:00 p.m. local time on the date shown in the timeline below. No questions will be responded to after this time.

c. Summary of Questions and Answers

Responses to all substantive and relevant questions will be compiled in writing and distributed to all registered, interested persons by e-mail no later than ten (10) calendar days prior to the proposal due date. Only those answers issued in writing by OPEGA will be considered binding. OPEGA reserves the right to answer or not answer any question received.

5. DEADLINES & OTHER KEY DATES

Event Name	Event Date and Time
Due Date for Receipt of Written Questions	August 6, 2012 at 5:00 pm, local time
Date Responses to Questions Distributed	August 10, 2012 at 5:00 pm, local time
Due Date for Receipt of Proposals	August 20, 2012 at 5:00 pm, local time
Estimated Contract Start Date	October 1, 2012

6. SCOPE OF REVIEW

a. As provided in Resolve 2011, chapter 166, the Review shall include an objective evaluation of the Maine school funding formula. (See Attachment A for the full text of Resolve 2011, chapter 166). The evaluation must include, but is not limited to, comparisons between municipalities in Maine and other comparable states and must address the following issues:

1. Whether the school funding formula and the subsidy distribution method in the laws of the State are fair and equitable and how the EPS Funding Act compares to other states' school funding systems that are considered to be fair and equitable;
2. The various ways that school funding systems in other states determine and calculate the costs and components of a comprehensive education system and the advantages and disadvantages of those different approaches;
3. The percentage of the total cost of public education that is provided by the state in other states' school funding systems and how the state share is funded in the other states;
4. The advantages and disadvantages of calculating state aid to school administrative units based on student enrollment count and property valuation;
5. How other states define a municipality's ability to pay for public education and what the arguments are in favor of and against those definitions;
6. The effectiveness of state aid provided by other states' school funding systems to support economically disadvantaged students in local school districts as compared to the support provided to economically disadvantaged students in school administrative units under the laws of the State; and
7. Changes that should be made to the definitions of the cost components and to the funding distribution method in the EPS Funding Act to provide adequate resources for a

comprehensive education system and to more accurately determine the percentage of essential programs and services funding levels that each school administrative unit should receive from the State.

b. The Legislature's Joint Standing Committee on Education and Cultural Affairs met on July 11, 2012 and unanimously agreed to add the evaluation of the following issues to the scope of the review included in this RFP:

1. The effectiveness of methods used by other states to attract promising educators into teaching in the state's school districts, including but not limited to, the effect of salary scales, signing bonuses and other incentives established in other states on student performance and achievement;

2. An analysis of the Essential Programs and Services Funding Act provisions that provide that the annual state share percentage of the total cost of funding public education from kindergarten to grade 12 must be 55%, including an analysis of the cost components that other states include in the state share percentage in their state's school funding systems and the advantages and disadvantages of those approaches;

3. The various ways that other states review and evaluate the effectiveness of the state's school funding system, including provisions that enable state policymakers to adapt the state's school funding system to changing circumstances, including but not limited to changes in student population and property valuation, so that the state's school funding system can continue to be current, relevant and fair; and

4. The various ways that other states provide for the funding of tribal schools, including but not limited to, the interaction of the state's school funding system with federal funding provisions for tribal schools and the advantages and disadvantages of those approaches.

c. The Evaluation will consist of two parts.

Part I

Part I will include a review of previous studies and available data related to the State's school funding laws, a review of school funding systems in comparable states, an assessment of each of the issues in subsections a and b above, including the arguments in favor of and against the provisions of the State's school funding laws, recommended alternatives to the EPS Funding Act, and a review of:

A. The existing studies of the EPS Funding Act, including research that was conducted to develop the State's school funding system and research conducted since the enactment of the EPS Funding Act;

B. The existing school finance data collected by the Maine Department of Education and state and local tax revenue data collected by the Maine Department of Administrative and Financial Services, Bureau of Revenue Services related to the education finance system under the EPS Funding Act; and

C. The education finance systems in comparable states with an emphasis on other states in New England and states committed to education quality, student equity and taxpayer equity.

Part II

Part II will include an in-depth analysis of the recommended alternatives to the EPS Funding Act included in Part 1 and an evaluation of:

A. The recommended alternatives necessary to provide adequate resources for a comprehensive education system and to more accurately determine the percentage of essential programs and services funding levels that each school administrative unit should receive from the State;

B. The recommended alternatives to the definitions of the cost components and to the funding distribution method in the EPS Funding Act; and

C. The costs and benefits of the recommended alternatives, including comparative analyses and calculations related to education quality, student equity and taxpayer equity.

7. ACCESS TO PREVIOUS REPORTS & DATA

The State of Maine's Department of Education, Department of Administrative and Financial Services, Bureau of Revenue Services and the Education Research Institute (established pursuant to the Maine Revised Statutes, Title 20-A, section 10) will provide the qualified research entity selected with access to previous reports on school funding in the State and access to publicly available database information necessary to carry out the evaluation.

8. STAKEHOLDER INPUT

The contract will require the selected qualified research entity to provide education and other stakeholder groups in the State with opportunities for input at appropriate times, as part of its evaluation. The Contract Administrator, after consultation with the Joint Standing Committee on Education and Cultural Affairs, will determine the stakeholder groups who shall be invited to provide input to the selected qualified research entity.

9. BACKGROUND

Since enactment of the EPS Funding Act in 2004, the Legislature has debated both incremental and comprehensive funding reform proposals to remedy perceived flaws in the school funding formula and the state subsidy distribution mechanism. In order to obtain information in a timely manner so as to make informed policy decisions, the Legislature by enacting Resolve 2011, chapter 166 has provided for an independent review of education finance policies and practices associated with the EPS Funding Act and how it relates to the best practices of other states' school funding systems that are considered to be fair and equitable.

The Office of Program Evaluation and Government Accountability (OPEGA) has developed this Request for Proposals to permit the Legislature through the Joint Standing Committee on Education and Cultural Affairs, and with the advice of the Independent Review Advisory Committee established by the Legislature, to award a contract to the selected qualified research entity to conduct the review. OPEGA is also charged with administering the resultant contract with the advice and assistance of the Independent Review Advisory Committee established by the Legislature through Resolve 2011, chapter 166. (see ATTACHMENT A)

OPEGA is a non-partisan office that assists the Maine State Legislature in its government oversight duties by performing, and contracting for, independent reviews of State programs, agencies and activities. OPEGA reports to the Maine Legislature's Government Oversight Committee (GOC) which assigns projects, receives the results and generally oversees OPEGA's activities and the use of its resources. For more information about OPEGA and the Government Oversight Committee, visit http://www.maine.gov/legis/opega.

10. DESIRED QUALIFICATIONS

The Legislature is specifically seeking a qualified research entity with the following qualifications:

- Substantial knowledge of:
  - state school funding formulas and subsidy distribution methods including ways states determine and calculate the costs and components of a comprehensive education system;
  - the advantages and disadvantages of different methods for calculating state aid;
  - assessing whether State school funding formulas and subsidy distribution systems are meeting criteria of fairness and equity; and
  - the effectiveness of state school funding systems with regard to supporting economically disadvantaged students.
- Experience in:
  - conducting independent evaluations of state school funding formulas and state aid distribution systems;
  - developing recommended alternatives to school funding formulas and state aid distribution systems;
  - preparing detailed reports with in-depth analyses of other state systems and recommended alternatives; and
  - working with state legislators, government and municipal entities.
- High functioning project management, critical thinking and interpersonal skills.
- Ability to maintain full objectivity and confidentiality in conducting this review including assuring there are no possible impairments (in fact and/or appearance) to the qualified research entity's independence.

11. DELIVERABLES

Due dates for deliverables, agreed upon between the Legislature through its Joint Standing Committee on Education and Cultural Affairs and the selected qualified research entity will be included in the final contract including:

- A written work plan that reflects the design in sufficient detail to allow OPEGA and the Independent Review Advisory Committee to understand the specific work steps and tasks the consultant intends to perform as per Resolve 2011, chapter 166 including opportunities for public input from stakeholder groups in the state;
- A written project schedule or other tool for planning and tracking progress of the review;
- Regular updates on progress and results to OPEGA, the Independent Review Advisory Committee and the Joint Standing Committee on Education and Cultural Affairs;
- Written reports for **Phase I due April 1, 2013** and **Phase II due December 1, 2013**; and
- Participation in public presentations of Phase I and Phase II reports to the Joint Standing Committee on Education and Cultural Affairs when requested.

12. REQUIRED INFORMATION

In your response to this Request for Proposal, please provide the following information in the order presented below:

Organization and Project Team Information

- The qualified research entity's legal name and list of principal employees.
- Descriptions of projects completed by the qualified research entity or currently in progress, that demonstrate the skills, capacities, knowledge and qualifications needed to undertake evaluations of state school funding systems, and the costs and benefits of various alternative approaches, including the advantages and disadvantages of different methods for calculating state aid to local school districts and determinations of the effectiveness of other states' school funding systems in supporting economically disadvantaged students in local school districts and school administrative units.
- Describe the scope and objectives of each project, the date of the project and the qualified research entity's role in each. Provide copies of, or links to, any relevant final reports from those projects.
- Description of the qualified research entity's experience and contact names and phone numbers for each of the projects listed above, as well as for any other appropriate references.
- A description of the key personnel who will have actual responsibility for this project including each proposed team member's position with the qualified research entity, experience on relevant projects and their resumes.
- A description of each team member's role on this project. For the individual proposed as project manager, provide brief examples of previous team lead or project management experience. Including an example of a written work plan developed by this individual would be helpful.
- A description of any past work conducted by the qualified research entity or its principals for the State of Maine or other governmental entities within the State of Maine.
- A description of any situations that may impair or be perceived as impairing, the qualified research entity's independence and objectivity in performing this audit, and disclosure of any pecuniary or other vested interest in the review, programs, entities or outcomes associated with the review.

Approach

- Description of the general approach the qualified research entity proposes to take to complete the project objectives/deliverables including the methodology by which fair and equitable funding systems and comparable states will be identified and the proposed approach for seeking input from stakeholder groups such that rural, urban and tribal perspectives are considered. Please address the objectives for Phase I separately from those objectives in Phase II.
- A summary of the analytic approaches and data sets the qualified research entity expects to use for this evaluation.
- List of any additional areas of focus the entity recommends including as part of this project. Specify whether the time and cost proposed include those additional areas.

Time and Cost

- A proposed timeline for completion of the project. Please note that Resolve 2011, chapter 166 authorizing this contract requires the consultant to fulfill all deliverables, other than presentations, by April 1, 2013 for Phase I and by December 1, 2013 for Phase II.
- Provide a budget, including anticipated person-hours and hourly rates for the each person from your firm, to complete the project. Please separate out by Phase I and Phase II.

13. SELECTION OF QUALIFIED RESEARCH ENTITY

Selection of the successful bidder is anticipated by mid-September 2012. All bidders will be notified of the final results. However, this RFP is not intended to be binding on the Legislature and the Legislature reserves the right to reject any and all bids at its sole discretion. One or more bidders may be asked to publicly present their proposals before a final decision is made. The Legislature also reserves the right to further negotiate price and terms with any bidder.

Responses to this RFP will be evaluated according to the following criteria:

Criteria	Weight
Research Entity Experience & Capacity	20%
Project Team Qualifications & Experience	20%
Proposed Review Methodology & Schedule	35%
Cost	25%

The selected bidder will be required to negotiate a contract with the Agreement Administrator for the Legislative Council with the inclusion of terms including the following:

RIDER B
METHOD OF PAYMENT AND OTHER PROVISIONS

1. **CONTRACT AMOUNT** $_____
   If the Contractor retains any subcontractors to perform portions of the work required by this Contract, the Contractor is responsible for their payment. Any miscellaneous expenses incurred by the Contractor are the responsibility of the Contractor.

2. **INVOICES AND PAYMENTS** The Legislative Council will pay the Contractor based on receipt and acceptance of deliverables as follows:

   _____

   _____

   Payments are subject to the Contractor's compliance with all items set forth in this Agreement and subject to the availability of funds. The Legislative Council will generally process payments within 30 days of receipt of approved invoice for payment.

3. **BENEFITS AND DEDUCTIONS** If the Contractor is an individual, the Contractor understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Legislative Council, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Contractor further understands that annual information returns, as required by the Internal Revenue Code or State of Maine income tax laws, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Contractor for his/her income tax records.

4. **INDEPENDENT CAPACITY** In the performance of this Agreement, the parties hereto agree that the Contractor, and any agents and employees of the Contractor shall act in the capacity of an independent contractor and not as officers or employees or agents of the State or the Legislature.

5. **LEGISLATIVE COUNCIL'S REPRESENTATIVE** The Contract Administrator is the Legislative Council's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Legislative Council when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Contractor, subject to the approval of the Executive Director of the Legislative Council.

6. **CONTRACT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Contractor shall be submitted to:

Name: Beth L. Ashcroft
Title: Director, Office of Program Evaluation and Government Accountability
Address: 82 SHS Augusta, ME 04333 OR
Email: beth.ashcroft@legislature.maine.gov

who is designated as the Agreement Administrator on behalf of the Legislative Council for this Agreement, except where specified otherwise in this Agreement.

7. **CHANGES IN THE WORK** The Legislative Council may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by the Contractor and the Executive Director of the Legislative Council and approved by the Joint Standing Committee on Education and Cultural Affairs. Said amendment must be effective prior to execution of the work.

8. **SUB-AGREEMENTS** Unless provided for in this Agreement, no arrangement shall be made by the Contractor with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Agreement must be annotated "approved" by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Contractor and its employees assigned for services thereunder.

9. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Agreement Administrator. No subcontracts or transfer of agreement shall in any case release the Contractor of its liability under this Agreement.

10. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Contractor agrees as follows:

a. The Contractor shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor shall, in all solicitations or advertising for employees placed by or on behalf of the Contractor relating to this Agreement, state that all qualified applicants shall receive

consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

11. **EMPLOYMENT AND PERSONNEL** The Contractor shall not engage any person in the employ of any State Department or Agency or the Legislature in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency or the Legislature, except regularly retired employees, without the written consent of the Executive Director of the Legislative Council. Further, the Contractor shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Legislative Council who has not been retired for at least one year, without the written consent of the Executive Director of the Legislative Council. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

12. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State or the Legislature at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State or the Legislature at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Contractor or any affiliate of the Contractor, without the written consent of the Executive Director of the Legislative Council. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

13. **WARRANTY** The Contractor warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Legislative Council shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. **ACCESS TO RECORDS** As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing

the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Contractor shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Contractor shall allow inspection of pertinent documents by the authorized representative of the Legislative Council, and shall furnish copies thereof, if requested.

15. **TERMINATION** The performance of work under the Agreement may be terminated by the Legislative Council in whole, or in part, whenever for any reason the Agreement Administrator after consultation with the Joint Standing Committee on Education and Cultural Affairs shall determine that such termination is in the best interest of the Legislature. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination, and modified accordingly.

16. **STANDARD OF PERFORMANCE** The Contractor shall perform the work under this Contract in a workmanlike manner and in accordance with standards generally accepted in the consulting and analysis profession. The Contractor's failure to perform the work in accordance with this standard is cause for termination of the contract by the Legislative Council.

17. **GOVERNMENTAL REQUIREMENTS** The Contractor warrants and represents that it will comply with all governmental ordinances, laws and regulations.

18. **GOVERNING LAW** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Contractor consents to personal jurisdiction in the State of Maine.

19. **STATE HELD HARMLESS** The Contractor agrees to indemnify, defend and save harmless the State and the Legislature, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this Agreement by the Contractor, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Agreement; and (v) all legal costs and other expenses of

defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Legislative Council's negligence or unlawful act, or (ii) action by the Contractor taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Legislative Council in accordance with this Agreement.

20. **NOTICE OF CLAIMS** The Contractor shall give the Agreement Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Contractor by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

21. **APPROVAL** This Agreement must have the approval of the Joint Standing Committee on Education and Cultural Affairs and the Executive Director of the Legislative Council before it can be considered a valid, enforceable document.

22. **LIABILITY INSURANCE** The Contractor shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Legislative Council from suits. Contractors insured through a "risk retention group" insurer prior to July 1, 1991 may continue under that arrangement. Prior to or upon execution of this Agreement, the Contractor shall furnish the Legislative Council with written or photocopied verification of the existence of such liability insurance policy.

23. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

24. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B, followed in precedence by Rider A, and any remaining Riders in alphabetical order.

25. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

Attachment A

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND TWELVE

H P. 702 - L.D. 958

Resolve, To Authorize the Legislature To Contract for an Independent Review To Evaluate the Essential Programs and Services Funding Act

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

Whereas, since enactment of the Essential Programs and Services Funding Act established under the Maine Revised Statutes, Title 20-A, chapter 606-B, the Legislature has debated both incremental and comprehensive funding reform proposals to remedy perceived flaws in the school funding formula and the state subsidy distribution mechanism; and

Whereas, in order to obtain information in a timely manner to make informed policy decisions, the Legislature should provide for an independent review of education finance policies and practices associated with the Essential Programs and Services Funding Act; and

Whereas, the Legislature should promptly contract with a qualified research entity to conduct an objective evaluation of the Essential Programs and Services Funding Act as it relates to the best practices of other states' school funding systems that are considered to be fair and equitable; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Legislature to contract for independent review of the essential programs and services model. Resolved: That the Legislature, through the Joint Standing Committee on Education and Cultural Affairs, may contract with a qualified research entity to conduct pursuant to sections 5 and 6 an independent review of the Essential Programs and Services Funding Act established under the Maine Revised Statutes, Title 20-A, chapter 606-B; and be it further

Sec. 2. Assistance; request for proposals process. Resolved: That, at the direction of the Joint Standing Committee on Education and Cultural Affairs, referred to

in this resolve as "the joint standing committee," the Office of Program Evaluation and Government Accountability, referred to in this resolve as "the office," shall develop and administer a request for proposals process to permit the Legislature, through the joint standing committee, to award a contract pursuant to section 1. The office, with the advice and assistance of the Independent Review Advisory Committee, established under section 4 and referred to in this resolve as "the advisory committee," and in consultation with and with the approval of the joint standing committee, shall:

1. Develop and administer a request for proposals process in accordance with section 3;

2. Administer the contract entered into pursuant to section 1, including monitoring the research entity's performance in meeting deadlines, providing deliverables pursuant to sections 5 and 6 and complying with other terms of the contract; and

3. Within available resources, provide other assistance to the joint standing committee relating to the contract and the purposes of this resolve; and be it further

Sec. 3. **Request for proposals; standards and selection process. Resolved:** That the office, with the advice and assistance of the advisory committee, and in consultation with and with the approval of the joint standing committee, shall administer a request for proposals process in accordance with this section.

1. The qualifications of a research entity providing proposals must include, but are not limited to, the financial, technical and operational capacity of the entity to conduct state-level education policy research and fiscal analysis, as demonstrated by the entity's professional experience and expertise.

2. With the approval of the joint standing committee, the office shall issue a request for proposals and publish notice of the request on the Legislature's publicly accessible website and through advertisements in 2 or more public newspapers circulated wholly or in part in the State and may provide any further notice of the request to any other media or entities, as approved by the joint standing committee. The notice must provide that the office will accept, for 30 days after the first date of publication, proposals from qualified research entities that meet the standards approved by the joint standing committee.

3. After proposals have been received and the period for accepting proposals has expired, the office, with the advice and counsel of the advisory committee, shall evaluate the proposals and present a ranking of or recommendations regarding the proposals to the joint standing committee. The joint standing committee shall review the recommendations and choose the proposal it wishes to accept. The joint standing committee shall notify the Executive Director of the Legislative Council of its selection of a proposal. The executive director shall execute a contract with the selected research entity on behalf of the Legislature.

4. Notwithstanding the Maine Revised Statutes, Title 1, section 402, except for the name and mailing address of a research entity that submits a proposal, the proposal and all other materials prepared, used or submitted in connection with the proposal are

confidential and are not subject to public review until the period for accepting proposals has expired; and be it further

Sec. 4. Independent Review Advisory Committee. Resolved: That the Independent Review Advisory Committee is established to advise the office and joint standing committee on matters related to developing a request for proposals and administering the contract entered into pursuant to this resolve. The advisory committee consists of the following members:

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

2. The Chair of the State Board of Education or the chair's designee;

3. A Co-director of the Education Research Institute established pursuant to the Maine Revised Statutes, Title 20-A, section 10;

4. The Executive Director of the Maine School Management Association or the executive director's designee; and

5. The Director of the Margaret Chase Smith Policy Center at the University of Maine or the director's designee who is a faculty researcher, research associate or policy fellow at the Margaret Chase Smith Policy Center.

The advisory committee shall elect a chair from among its members. The office shall provide to the members of the joint standing committee notice of the meetings of the office with the advisory committee so that members of the joint standing committee may attend; and be it further

Sec. 5. Scope of the review. Resolved: That the contract entered into pursuant to section 1 must require an objective evaluation of the Essential Programs and Services Funding Act and must require a review of the school funding formula. The evaluation must include, but is not limited to, comparisons between municipalities within this State and between this State and other comparable states and must address the following issues:

1. Whether the school funding formula and the subsidy distribution method in the laws of the State are fair and equitable and how the Essential Programs and Services Funding Act compares to other states' school funding systems that are considered to be fair and equitable;

2. The various ways that school funding systems in other states determine and calculate the costs and components of a comprehensive education system and the advantages and disadvantages of those different approaches;

3. The percentage of the total cost of public education that is provided by the state in other states' school funding systems and how the state share is funded in the other states;

4. The advantages and disadvantages of calculating state aid to school administrative units based on student enrollment count and property valuation;

5. How other states define a municipality's ability to pay for public education and what the arguments are in favor of and against those definitions;

6. The effectiveness of state aid provided by other states' school funding systems to support economically disadvantaged students in local school districts as compared to the support provided to economically disadvantaged students in school administrative units under the laws of the State; and

7. Changes that should be made to the definitions of the cost components and to the funding distribution method in the Essential Programs and Services Funding Act to provide adequate resources for a comprehensive education system and to more accurately determine the percentage of essential programs and services funding levels that each school administrative unit should receive from the State; and be it further

Sec. 6. General requirements of the review. Resolved: That the contract entered into pursuant to section I must require:

1. A review of previous studies and available data related to the State's school funding laws; a review of school funding systems in comparable states; an assessment of each of the issues in section 5, including the arguments in favor of and against the provisions of the State's school funding laws; recommended alternatives to the Essential Programs and Services Funding Act; and a review of:

A. The existing studies of the Essential Programs and Services Funding Act, including research that was conducted to develop the State's school funding system and research conducted since the enactment of the Essential Programs and Services Funding Act;

B. The existing school finance data collected by the Department of Education and state and local tax revenue data collected by the Department of Administrative and Financial Services, Bureau of Revenue Services related to the education finance system under the Essential Programs and Services Funding Act; and

C. The education finance systems in comparable states with an emphasis on other states in New England and states committed to education quality, student equity and taxpayer equity; and

2. An in-depth analysis of the recommended alternatives to the Essential Programs and Services Funding Act included in subsection I and an evaluation of:

A. The recommended alternatives necessary to provide adequate resources for a comprehensive education system and to more accurately determine the percentage of essential programs and services funding levels that each school administrative unit should receive from the State;

B. The recommended alternatives to the definitions of the cost components and to the funding distribution method in the Essential Programs and Services Funding Act; and

C. The costs and benefits of the recommended alternatives, including comparative analyses and calculations related to education quality, student equity and taxpayer equity.

The Department of Education, the Department of Administrative and Financial Services, Bureau of Revenue Services and the Education Research Institute established pursuant to the Maine Revised Statutes, Title 20-A, section 10 shall provide the qualified research entity selected with access to previous reports on school funding in the State and access to database information necessary to carry out the evaluation.

The contract entered into pursuant to section 1 must require the qualified research entity selected to provide opportunities for input from education stakeholder groups in the State as part of its evaluation; and be it further

Sec. 7. **Disqualification. Resolved:** That the Education Research Institute established pursuant to the Maine Revised Statutes, Title 20-A, section 10, due to its prior involvement with the development, review and analysis of the essential programs and services funding model, is disqualified from being considered or selected to enter into the contract pursuant to section 1; and be it further

Sec. 8. Preliminary and final reports. Resolved: That the qualified research entity selected to conduct the independent review pursuant to this resolve shall present a preliminary report of the results of the review under section 6, subsection 1 to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs no later than April 1, 2013. The research entity shall present the final report, including the results of the review under section 6, subsection 2, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by December 1, 2013. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs may submit a bill relating to the final report to the Second Regular Session of the 126th Legislature; and be it further

Sec. 9. Suspension of contract to review essential programs and services components. Resolved: That, notwithstanding the Maine Revised Statutes, Title 20-A, section 15689-A, subsection 3, for fiscal year 2011-12 and fiscal year 2012-13, the Commissioner of Education may not contract with a statewide education research institute to review certain cost components of the Essential Programs and Services Funding Act in accordance with the schedule established in Title 20-A, section 15686-A; and be it further

Sec. 10. Contract to compile and analyze education data. Resolved: That, notwithstanding the Maine Revised Statutes, Title 20-A, section 15689-A, subsection 6, for fiscal year 2011-12 and fiscal year 2012-13, the Commissioner of Education and the Legislature may contract with a statewide education research institute for the compilation and analysis of education data in accordance with Title 20-A, section 10, except that the contract for these 2 fiscal years may not exceed the balance of funds remaining after funds allocated for this purpose are transferred pursuant to this resolve to the Legislature to fund the contract authorized under section 1; and be it further

Sec. 11. Committee meetings authorized. Resolved: That the joint standing committee may meet up to 4 times to carry out its responsibilities under this resolve; and be it further

Sec. 12. Appropriations and allocations. Resolved: That the following appropriations and allocations are made

EDUCATION, DEPARTMENT OF

General Purpose Aid for Local Schools 0308

Initiative: Deappropriates funds no longer required for the contract to review the cost components of the Essential Programs and Services Funding Act pursuant to the Maine Revised Statutes, Title 20-A, section 15689-A, subsection 3 and for a portion of the contract with a statewide education policy research institute for the compilation and analysis of education data in accordance with the provisions established pursuant to Title

20-A, section 10. **GENERAL FUND**

	2011-12	**2012-13**
All Other	($150,000)	($300,000)
GENERAL FUND TOTAL	($150,000)	($300,000)

EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS	**2011-12**	**2012-13**
GENERAL FUND	**($150,000)**	**($300,000)**
DEPARTMENT TOTAL - ALL **FUNDS**	**($150,000)**	**($300,000)**

LEGISLATURE

Legislature 0081

Initiative: Provides funds for a contract to conduct an independent review of the school funding formula and related state subsidy distribution method in the Essential Programs and Services Funding Act. Funds appropriated for this purpose may not lapse but must be carried forward to be used to complete the independent review authorized by this resolve.

GENERAL FUND	**2011-12**	**2012-13**
All Other	$150,000	$300,000
GENERAL FUND TOTAL	$150,000	$300,000

LEGISLATURE DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	$150,000	$300,000
DEPARTMENT TOTAL - ALL FUNDS	$150,000	$300,000

SECTION TOTALS	2011-12	2012-13
GENERAL FUND	$0	$0
SECTION TOTAL - ALL FUNDS	$0	$0

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

In House of Representatives,.....2012

Read and passed fmally.

..... Speaker

In Senate,..... 2012

Read and passed fmally.

..... President

Approved..... 2012

..... Governor