

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2004

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Legislative Document

No. 1819

S.P. 667

In Senate, December 23, 2003

**An Act To Implement the Recommendations of the Study Group To  
Examine an Emergency Alert Notification System for Deaf and  
Hard-of-hearing Individuals**

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Submitted by Senator TREAT of Kennebec for the Study Group to Examine an Emergency Alert Notification System for Deaf and Hard-of-hearing Individuals pursuant to Resolve 2003, chapter 78.

Received by the Secretary of the Senate on December 22, 2003. Referred to the Committee on Utilities and Energy pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

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

PART A

Sec. A-1. 26 MRSA §1419, sub-§1, ¶B-2, as amended by PL 2001, c. 377, §1, is further amended to read:

B-2. "Specialized customer ~~telecommunications~~ communications equipment" means ~~telecommunications~~ communications equipment used by persons with disabilities to conduct telephone communications or equipment that provides or assists in providing emergency alert notification to deaf persons or hard-of-hearing persons. "Specialized customer ~~telecommunications~~ communications equipment" includes but is not limited to teletypewriters, artificial larynges, signaling devices, amplified handsets, large number dial overlays, direct telephone dialing, fax machines, equipment necessary to use short message services or text message services ~~or~~ and other equipment used by persons with disabilities to provide access to telephone networks and equipment that provides or facilitates emergency alert notification to deaf persons or hard-of-hearing persons.

Sec. A-2. 26 MRSA §1419, sub-§2, as amended by PL 1997, c. 751, Pt. A, §3, is further amended to read:

2. **Specialized customer communications equipment system.** The department shall consult with appropriate agencies and organizations serving deaf, hard-of-hearing or speech-impaired persons and persons with disabilities concerning the needs of the specialized customer ~~telecommunications~~ communications equipment system. To the extent that funds are available, the department shall take steps necessary to preserve and maintain a viable specialized customer ~~telecommunications~~ communications equipment system for use by deaf, hard-of-hearing or speech-impaired persons and persons with disabilities in this State, including, but not limited to, providing for repair services and equipment for loaning to persons whose specialized customer ~~telecommunications~~ communications equipment is being repaired. The department may also use available funds to provide training in the use of specialized customer communications equipment.

Sec. A-3. 26 MRSA §1419-A, as amended by PL 1999, c. 227, §§1 and 2, is further amended to read:

§1419-A. **Specialized customer communications equipment for persons with disabilities**

~~1. --- Money --- for --- specialized --- customer --- telecommunications equipment. --- The --- Bureau --- of --- Rehabilitation --- Services --- within --- the~~

2 department, pursuant to appropriation of money to the bureau for  
specialized--customer--telecommunications--equipment--for--deaf,  
4 hard-of-hearing--and--speech-impaired--persons--and--persons--with  
disabilities, shall, upon request, provide up to 50% of the cost  
6 of--specialized--customer--telecommunications--equipment--to--an  
organization or municipality that makes available the remaining  
8 funds for this equipment in a manner satisfactory to the Director  
of the Bureau of Rehabilitation Services.

10 **2. Communications Equipment Fund.** There is established the  
Telecommunications Communications Equipment Fund to be used by  
12 the Division of Deafness within the Bureau of Rehabilitation  
Services. The fund is nonlapsing. The Division of Deafness may  
14 accept gifts or grants for the purposes of this section. These  
gifts and grants and authorized appropriations must be deposited  
16 in the Telecommunications Communications Equipment Fund and  
disbursed in accordance with this section. The  
18 Telecommunications Communications Equipment Fund may be used for  
purchase, lease, distribution, upgrading, installation,  
20 maintenance and repair of specialized customer telecommunications  
communications equipment for deaf, hard-of-hearing or  
22 speech-impaired persons and persons with disabilities and for  
training in the use of such equipment. The Division of Deafness  
24 may draw on the Telecommunications Communications Equipment Fund  
in accordance with the telecommunications communications  
26 equipment plan required under subsection 3.

28 **3. Communications equipment plan.** The Division of Deafness  
shall develop a plan to make specialized customer  
30 telecommunications communications equipment available to deaf,  
hard-of-hearing or speech-impaired persons and persons with  
32 disabilities and to distribute money from the Telecommunications  
Communications Equipment Fund. The plan must be developed by the  
34 Division of Deafness annually, not later than January 1st, in  
accordance with the rule-making procedures in Title 5, chapter  
36 375. The plan must provide for the expenditure of money from the  
Telecommunications Communications Equipment Fund for the benefit  
38 of deaf, hard-of-hearing or speech-impaired persons and persons  
with disabilities for the purchase, lease, distribution,  
40 upgrading, installation, maintenance and repair of specialized  
customer telecommunications communications equipment capable of  
42 serving their needs and may provide for expenditures for training  
in the use of such equipment. Persons who are profoundly deaf or  
44 speech-impaired speech-impaired or who have a disability so that  
they are unable to use the telephone for expressive or receptive  
46 communications, as verified by a written report from an  
otologist, an audiologist or a physician, are eligible for  
48 assistance from the Telecommunications Communications Equipment  
Fund. The plan must ensure that persons with disabilities have  
50 access to appropriate specialized customer telecommunications

2 communications equipment to meet their individual needs. The  
3 plan must include specific criteria that govern the priorities  
4 assigned to various persons who need this equipment. The  
5 criteria must take into account household income, degree of  
6 impairment, need for emergency communications, living  
7 arrangements and other factors determined relevant by the  
8 Division of Deafness. In developing the criteria, the Division  
9 of Deafness shall consult with the advisory council established  
10 in section 1413-C and other advisory councils representing the  
11 interests of persons with disabilities.

12 **4. Specialized customer communications equipment needs in**  
13 **the public school system.** The Department of Education, in  
14 consultation with the Governor Baxter School for the Deaf and  
15 advocacy groups for deaf and hard-of-hearing persons and for the  
16 information technology interests of consumers, shall conduct an  
17 annual survey of all public schools in the State for the purpose  
18 of assessing the need for specialized customer ~~telecommunications~~  
19 communications equipment in the school system and report its  
20 findings to the joint standing committee of the Legislature  
21 having jurisdiction over labor matters. The report must include:  
22 the number of deaf and hard-of-hearing students and their needs  
23 for specialized customer ~~telecommunications~~ communications  
24 equipment; the availability of specialized customer  
25 ~~telecommunications~~ communications equipment; the number of  
26 requests for specialized customer ~~telecommunications~~  
27 communications equipment; and the status of training for teachers  
28 and other school personnel in the use of specialized customer  
29 ~~telecommunications~~ communications equipment.

30 **5. Assessment on telecommunications carriers.** The Bureau of  
31 Rehabilitation Services, beginning in fiscal year 1999-2000,  
32 shall assess annually telecommunications carriers in accordance  
33 with this subsection and deposit the funds collected in the  
34 ~~Telecommunications~~ Communications Equipment Fund. The bureau  
35 shall assess telecommunications carriers in accordance with a  
36 schedule established by the Public Utilities Commission in  
37 accordance with this subsection.

40 A. The Public Utilities Commission shall determine which  
41 carriers are to be assessed under this subsection based on  
42 an evaluation of the extent of business activity undertaken  
43 by carriers in the State and the practicalities of making  
44 the assessment. The Public Utilities Commission shall  
45 include as many carriers as reasonably practicable in order  
46 to ensure a fair and broad allocation of the assessment.

48 B. The Public Utilities Commission shall establish an  
49 assessment schedule that is proportional to the gross annual  
50 revenues of the carriers identified for assessment and that

will generate an annual aggregate of \$85,000 \$122,500.

C. A telecommunications carrier doing business in this State, including a provider of interstate services and a provider of wireless services, shall provide to the Public Utilities Commission, on request, records relating to its gross revenues. At the request of a carrier, the Public Utilities Commission may issue a protective order in accordance with the Maine Rules of Civil Procedure, Rule 26 (c) to protect any confidential business information provided by the carrier. Records placed under protective order by the Public Utilities Commission to this paragraph are within the scope of a privilege against discovery within the meaning of Title 1, section 402, subsection 3, paragraph B and are not public records while under the protective order.

**Sec. A-4. Additional assessment to support start-up of emergency alert system.** Notwithstanding Title 26, section 1419-A, subsection 5, the Department of Labor, Bureau of Rehabilitation Services' annual assessment of telecommunications carriers pursuant to the Maine Revised Statutes, Title 26, section 1419-A, subsection 5 may, for the year 2004, generate an aggregate of \$136,750 for deposit in the Communications Equipment Fund. The bureau, in consultation with the Public Utilities Commission, may make a supplemental assessment prior to December 31, 2004 to collect the difference between amounts otherwise authorized for 2004 and the \$136,750 authorized pursuant to this section.

**Sec. A-5. Appropriations and allocations.** The following appropriations and allocations are made.

**LABOR, DEPARTMENT OF**

**Bureau of Rehabilitation Services - Division of Deafness**

Initiative: Increases the allocation of funds, generated by increased assessments authorized pursuant to this Act, from the Communications Equipment Fund within the Bureau of Rehabilitation Services, Division of Deafness to support the provision of emergency alert notification equipment for deaf and hard-of-hearing persons and related equipment evaluation, distribution and training services, including contractual services.

<b>Other Special Revenue Funds</b>	<b>2003-04</b>	<b>2004-05</b>
All Other	\$0	\$51,750
<b>Other Special Revenue Funds Total</b>	<b>\$0</b>	<b>\$51,750</b>

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**PART B**

**Sec. B-1. 36 MRSA §5122, sub-§2, ¶Q**, as corrected by RR 2003, c. 1, §38, is amended to read:

Q. A fraction of any amount previously added back by the taxpayer to federal adjusted gross income pursuant to subsection 1, paragraph N.

(1) With respect to property first placed in service during taxable years beginning in 2002, the adjustment under this paragraph is available for each year during the recovery period, beginning 2 years after the beginning of the taxable year during which the property was first placed in service. The fraction is equal to the amount added back under subsection 1, paragraph N with respect to the property, divided by the number of years in the recovery period minus 2.

(2) With respect to all other property, for the taxable year immediately following the taxable year during which the property was first placed in service, the fraction allowed by this paragraph is equal to 5% of the amount added back under subsection 1, paragraph N with respect to the property. For each subsequent taxable year during the recovery period, the fraction is equal to 95% of the amount added back under subsection 1, paragraph N with respect to the property, divided by the number of years in the recovery period minus 2.

In the case of property expensed pursuant to Section 179 of the Code, the term "recovery period" means the recovery period that would have been applicable to the property had Section 179 not been applied; and

**Sec. B-2. 36 MRSA §5122, sub-§2, ¶T**, as reallocated by RR 2003, c. 1, §37, is amended to read:

T. For income tax years beginning on or after January 1, 2002, an amount equal to the total premiums spent for long-term care insurance policies certified under Title 24-A, section 5075-A as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125-; and

**Sec. B-3. 36 MRSA §5122, sub-§2, ¶U** is enacted to read:

2 U. The amount given by the taxpayer in the taxable year to  
4 a video programming distributor, as defined in 47 Code of  
6 Federal Regulations, 79.1 (2002), to sponsor closed  
captioning, open captioning or other methods of visual  
presentation of audio information for persons who are deaf  
or hard-of-hearing.

8 **Sec. B-4. 36 MRSA §5200-A, sub-§2, ¶L**, as amended by PL 2003,  
c. 20, Pt. EE, §3, is further amended to read:

10 L. An amount equal to the absolute value of any net  
12 operating loss arising from a tax year beginning or ending  
14 in 2001 for which federal taxable income was increased under  
subsection 1, paragraph M and that, pursuant to Section 102  
16 of the federal Job Creation and Worker Assistance Act of  
2002, Public Law 107-147, was carried back more than 2 years  
18 to the taxable year for federal income tax purposes, but  
only to the extent that:

- 20 (1) Maine taxable income is not reduced below zero;
- 22 (2) The taxable year is either within 2 years prior to  
24 the year in which the loss arose or within the  
allowable federal period for carry-over of net  
26 operating losses; and
- 28 (3) The amount has not been previously used as a  
modification pursuant to this subsection; and

30 **Sec. B-5. 36 MRSA §5200-A, sub-§2, ¶M**, as repealed and  
32 replaced by PL 2003, c. 479, §6, is amended to read:

34 M. A fraction of any amount previously added back by the  
36 taxpayer to federal taxable income pursuant to subsection 1,  
paragraph N.

38 (1) With respect to property first placed in service  
during taxable years beginning in 2002, the adjustment  
40 under this paragraph is available for each year during  
the recovery period, beginning 2 years after the  
42 beginning of the taxable year during which the property  
was first placed in service. The fraction is equal to  
44 the amount added back under subsection 1, paragraph N  
with respect to the property, divided by the number of  
46 years in the recovery period minus 2.

48 (2) With respect to all other property, for the  
taxable year immediately following the taxable year  
50 during which the property was first placed in service,  
the fraction allowed by this paragraph is equal to 5%



2 of the amount added back under subsection 1, paragraph  
N with respect to the property. For each subsequent  
4 taxable year during the recovery period, the fraction  
is equal to 95% of the amount added back under  
6 subsection 1, paragraph N with respect to the property,  
divided by the number of years in the recovery period  
minus 2.

8  
10 In the case of property expensed pursuant to Section 179 of  
the Code, the term "recovery period" means the recovery  
12 period that would have been applicable to the property had  
Section 179 not been applied; and

14 **Sec. B-6. 36 MRSA §5200-A, sub-§2, ¶P** is enacted to read:

16 P. The amount given by the taxpayer in the taxable year to  
18 a video programming distributor, as defined in 47 Code of  
Federal Regulations, 79.1 (2002), to sponsor closed  
20 captioning, open captioning or other methods of visual  
presentation of audio information for persons who are deaf  
or hard-of-hearing.

22 **PART C**

24 **Sec. C-1. 35-A MRSA §7101, sub-§5** is enacted to read:

26 5. Homeland security and emergency alerts. The Legislature  
28 further finds that seamless, integrated, robust and redundant  
means of communication, including, but not limited to, voice and  
30 alphanumeric pagers, landline telephones, wireless telephones,  
text radio and wireless e-mail, create a robust communication  
32 system that enables rapid contact with first responders, ensures  
emergency alert notification to all affected persons in the  
34 State, including at-risk populations such as the hearing or  
visually impaired, and enhances homeland security. It is the  
36 policy of the State to encourage the deployment of the  
infrastructure necessary to support such a communications system.

40 **SUMMARY**

42 This bill includes the legislative recommendations of the  
Study Group to Examine an Emergency Alert Notification System for  
44 Deaf and Hard-of-hearing Individuals.

46 Part A amends the law relating to the Telecommunications  
Equipment Fund administered by the Department of Labor, Bureau of  
48 Rehabilitation Services, Division of Deafness. Part A expands  
the use of the fund to include equipment used to provide or  
50 facilitate notice of emergencies to deaf and

2 hard-of-hearing persons and for training related to such  
equipment. It also changes the name of the fund to reflect this  
4 expansion. It also repeals an obsolete provision relating to the  
provision of up to 50% of the cost of specialized customer  
6 telecommunications equipment under certain circumstances to an  
organization or municipality. Part A increases the  
8 telecommunications carrier assessment to cover the costs  
associated with providing equipment to facilitate notice of  
emergencies to deaf and hard-of-hearing persons and for training  
10 related to such equipment

12 Part B establishes a new tax incentive for entities that  
sponsor closed captioning, open captioning or other methods of  
14 visual presentation of audio information for persons who are deaf  
or hard-of-hearing. The amount of the sponsorship is subtracted  
16 from the taxable income of the entity.

18 Part C establishes as the policy of the State the  
encouragement of a communications system that involves seamless,  
20 integrated, robust and redundant means of communication that  
enable rapid contact with first responders, ensure emergency  
22 alert notification to all affected persons in the State,  
including at-risk populations such as the hearing or visually  
24 impaired, and enhance homeland security.