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**STATE OF MAINE
119TH LEGISLATURE
FIRST REGULAR SESSION**

**Final Report
of the**

**BLUE RIBBON COMMISSION
TO ESTABLISH A
COMPREHENSIVE INTERNET POLICY**

December 1999

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Executive Summary

The Blue Ribbon Commission to Establish a Comprehensive Internet Policy was established in the First Regular Session of the 119th Legislature by Resolve 1999, chapter 89. The Commission was co-chaired by Senator Carol Kontos and Representative Thomas Davidson and was composed of 12 voting members representing the Legislature, Internet service providers, the telecommunications industry, the Maine Bar Association, the cable television industry, the Maine Civil Liberties Union, and the Maine Software Developers Association. In addition, the Commission was composed of six nonvoting members representing the University of Maine System, the Department of Economic and Community Development, the Secretary of State's Office, the Maine State Library, the Public Advocate's Office and the Public Utilities Commission.

The Commission was convened on September 27, 1999 and met five times. The Commission received input from the Secretary of State's Office, the Securities Division of the Department of Professional and Financial Regulation, the University of Maine Internet Network, the Information Resource of Maine (InforME), the Maine Schools and Libraries Network, the Virginia Information Providers Network, the Maine Municipal Association and various telecommunications interest groups.

The Commission was charged with studying the following broad areas as they relate to the future of information technology in Maine: E-commerce, E-government, education, consumer privacy, Internet abuses, hate mail and pornography, electronic crimes, Internet access and business development.

Due to the relatively short time frame that the Commission had to complete its work and the complexity of the issues before it, the Commission decided to focus the majority of its time on issues relating to the following charges:

- "E-commerce" (specifically, digital and electronic signature verification and amendments to Maine statutes to encourage electronic business transactions on the Internet);
- "E-government" (specifically, payment of agency fees by credit card and other electronic means, requiring agencies to coordinate services on the Internet, and amendments to Maine statutes to encourage electronic governmental transactions on the Internet); and
- "Internet access" (specifically, municipal government linkage to the Internet to coordinate access to services for Maine citizens).

The Commission spent a limited amount of time on the Commission charges relating to "Education", including the University of Maine Internet Network and the Maine Schools and Libraries Network, and "Business development", including business incentives and the Maine Business Works program. For various reasons, including current federal legislative activity, the Commission decided it was not appropriate at this time to discuss issues relating to "Consumer privacy", "Internet abuses", "Hate mail and pornography" and "Electronic crimes" and instead decided these issues required further review.

The Commission makes the following nine recommendations:

- 1. The Commission recommends the Legislature adopt the Uniform Electronic Transactions Act in Maine.**
- 2. The Commission recommends the Legislature consider enacting digital signature legislation in the Second Regular Session of the 119th Legislature.**
- 3. The Commission recommends the following regarding credit card use by state agencies:**
 - a. that the State require agencies to accept credit cards;**
 - b. that Maine law continue to provide that credit card surcharges not be passed on to the consumer; and**
 - c. that the State negotiate with credit card companies for a lower merchant fee on credit card transactions with state agencies.**
- 4. The Commission recommends that, by February 15, 2000, the State Treasurer's Office study and develop procedures to enable state agencies to accept payments for goods and services by electronic means, including but not limited to electronic funds transfer, and report to the Joint Standing Committee on Business and Economic Development on its progress.**
- 5. The Commission recommends that the Legislative Council direct the nonpartisan staff to conduct a study to identify existing impediments to electronic commerce in Maine law and that the study report be submitted to the Joint Standing Committee on Business and Economic Development by December 1, 2000.**
- 6. The Commission supports funding for the Maine Governmental Information Network and recommends that the Joint Standing Committee on Utilities and Energy consider a variety of funding mechanisms for the Maine Governmental Information Network and report out legislation containing its proposal for the appropriate funding mechanism(s) during the Second Regular Session of the 119th Legislature.**
- 7. The Commission recommends that the Commissioner of the Department of Economic and Community Development initiate a process to simplify, streamline and promote existing performance-based business incentive programs, particularly those related to technology, and report to the Joint Standing Committee on Business and Economic Development by January 1, 2001 on the department's progress. The report should include proposed legislation, if any, necessary to implement this recommendation.**
- 8. A. The Commission recommends that the Joint Rules of the Legislature be amended to change the name of the Joint Standing Committee on Business and Economic Development to the Joint Standing Committee on Commerce and Technology to bring under its jurisdiction emerging technology-oriented business development issues.**
B. The Commission recommends that the Joint Rules of the Legislature be amended to change the name of the Joint Standing Committee on Utilities and Energy to the Joint Standing Committee on Utilities, Energy and Telecommunications to reflect the variety of telecommunication issues that the committee currently has under its jurisdiction.

- 9. The Commission recommends that Resolve 1999, chapter 89 be amended to extend the Commission into the legislative interim following the Second Regular Session of the 119th Legislature to continue its work in the following areas as they relate to the future of the Internet and information technology in Maine: E-commerce, E-government and Maine's Freedom of Access law, education, consumer privacy, Internet abuses, hate mail and pornography, electronic crimes, Internet access and business development.**

I. INTRODUCTION

A. Enabling Legislation

The Blue Ribbon Commission to Establish a Comprehensive Internet Policy was established in the First Regular Session of the 119th Legislature by Resolve 1999, chapter 89. The legislation proposing the Commission, L.D. 2155, was introduced by Senator Carol Kontos and was referred to the Joint Standing Committee on Business and Economic Development. A copy of the Resolve is attached as **Appendix A**.

B. Membership

The Commission consisted of 18 members: 12 voting members and 6 nonvoting members. The 12 voting members were selected as follows:

- Six members appointed by the President of the Senate including:
 - one Senator who serves on the Joint Standing Committee on Business and Economic Development,
 - two other Senators,
 - one member representing large Internet service providers,
 - one member representing the telecommunications industry, and
 - one member representing the Maine Bar Association; and
- Six members appointed by the Speaker of the House including:
 - one member of the House of Representatives who serves on the Joint Standing Committee on Business and Economic Development,
 - one other Representative,
 - one member representing small Internet service providers,
 - one member representing the Maine Software Developers Association,
 - one member representing the cable television industry, and
 - one member representing the Maine Civil Liberties Union.

The six nonvoting members of the Commission included the following:

- one representative of the University of Maine system appointed by the Chancellor of the University of Maine System;
- the Commissioner of Economic and Community Development or the commissioner's designee;
- the Secretary of State or the secretary's designee;
- the State Librarian or the State Librarian's designee;
- one representative of the Public Advocate's Office appointed by the Governor; and
- one representative of the Public Utilities Commission appointed by the Governor.

Senator Carol Kontos served as the Senate chair and Representative Thomas Davidson served as the House chair. A list of Commission members is included as **Appendix B**.

C. Charge to the Commission

The charge to the Commission was specified in the enabling legislation. The Commission was charged with studying the following issues that relate to the future of information technology in Maine:

1. The facilitation of electronic commerce for Maine citizens and businesses (“E-commerce”);
2. Making government more accessible to the citizens (“E-government”);
3. The use of the Internet and related technologies to improve education throughout the State (“Education”);
4. The protection of Internet users’ and citizens’ privacy (“Consumer privacy”);
5. The mitigation of Internet abuses including transmission of unsolicited bulk e-mail or spam (“Internet abuses”);
6. The regulation of hate mail and pornography (“Hate mail and pornography”);
7. The elimination of electronic crimes (“Electronic crimes”);
8. The promotion of Internet access for citizens throughout the State (“Internet access”); and
9. The promotion of business development in the areas of electronic, Internet-based and information technology businesses throughout the State (“Business development”).

D. Focus of the Commission

The charge to the Commission was broad. Due to the relatively short time frame that the Commission had to complete its work and the complexity of the issues before it, the Commission decided to focus the majority of its time on areas relating to the following charges:

- “E-commerce” (specifically, digital and electronic signature verification and amendments to Maine statutes to encourage electronic business transactions on the Internet);
- “E-government” (specifically, payment of agency fees by credit card and other electronic means, requiring agencies to coordinate services on the Internet, and amendments to Maine statutes to encourage electronic governmental transactions on the Internet); and
- “Internet access” (specifically, municipal government linkage to the Internet to coordinate access to services for Maine citizens).

The Commission spent a limited amount of time on the Commission charges relating to “Education”, including the University of Maine Internet Network and the Maine Schools and Libraries Network, and “Business development”, including business incentives and the Maine Business Works program. For various reasons, including current federal legislative activity, the Commission decided it was not appropriate at this time to discuss issues relating to “Consumer privacy”, “Internet abuses”, “Hate mail and pornography” and “Electronic crimes” and instead decided these issues required further review.

II. COMMISSION PROCESS

A. Scope and Focus of Commission Meetings

The legislation that created the Commission had an effective date of June 17, 1999. The Commission was convened on September 27, 1999. In addition to this first meeting, the Commission held four other meetings. These meetings were held on October 13, 1999, November 8, 1999, November 22, 1999 and December 6, 1999. Meeting summaries are included as **Appendix C**.

1. The first meeting of the Blue Ribbon Commission focused on reviewing the Commission’s charge and identifying issues to be addressed by the Commission. The Commission also received a presentation on InforME from the Maine Secretary of State. InforME is a public/private partnership that provides delivery of governmental services and information to citizens and businesses via Internet technology. In addition, the Deputy Secretary of State spoke to the Commission about InforME’s role in administering the State of Maine homepage, the automation of State and municipal government to coordinate services using the Internet, collection of credit card fees for purchases of governmental services via the Internet and the need for the creation of a system to verify digital signatures.
2. The second meeting of the Commission focused on digital and electronic signatures and credit card payments to agencies for purchases of governmental services. In addition, the Commission received a presentation on the

University Maine System's Internet Network (UNET) from the Executive Director of UNET. The Maine State Library presented information to the Commission on the Maine Schools and Libraries Network (MSLN).

3. The third meeting of the Commission focused on continued discussion of digital and electronic signatures and credit card payments to agencies for purchases of governmental services. The General Manager for the Virginia Information Providers Network gave a presentation to the Commission on digital signature technology. The Securities Administrator from the Department of Professional and Financial Regulation discussed the Uniform Electronic Transactions Act (UETA) with the Commission and presented a piece of draft legislation to adopt UETA in Maine.
4. The fourth meeting of the Commission focused on formulating recommendations for the report. In addition, the Department of Community and Economic Development presented the Commission with information on business development incentive programs in Maine.
5. The fifth meeting of the Commission focused on a review of the recommendations and the draft final report.

B. Report and Legislation

Resolve 1999, chapter 89 established December 1, 1999 as the reporting date of the Commission to the Joint Standing Committee on Business and Economic Development. However, the Commission requested and received permission from the Legislative Council to extend the reporting date to December 17, 1999. The Joint Standing Committee on Business and Economic Development is authorized pursuant to Resolve 1999, chapter 89 to report out a bill during the Second Regular Session of the 119th Legislature concerning the findings and recommendations of the Commission.

III. BACKGROUND INFORMATION

A. Electronic Commerce and Electronic Government

The use of the Internet is growing at an increasingly rapid pace. According to the "1999 Digital Economy Factbook", during the first quarter of 1999, more than 83 million adults accessed the Internet. In addition, 56 million individuals shopped on-line and 23.5 million made at least one on-line purchase. Analysts predict that by 2002, the online retail market could reach \$80 billion.

Purchasing products and services over the Internet, however, does not come without some concerns by consumers. Consumers that are reluctant to purchase items over the Internet are generally concerned about whether or not their transactions will be

safe and whether or not the information they are electronically sending will remain private. With the use of electronic authentication technology, consumers gain confidence in the reliability of the transfer of confidential information to another party, while also reducing reliance on paper identification and handwritten signatures.

Many state governments have enacted legislation to authorize electronic commerce transactions for governmental purchases, others have enacted legislation that applies to private electronic commerce. The advantages of electronic commerce for government include reduced costs, delivery of services to new markets, service or product differentiation and providing choices to consumers of whether to purchase governmental services on-line or in-person.

States that have enacted legislation dealing with electronic commerce have essentially authorized the use of electronic authentication technology. Generally, electronic authentication technology allows the consumer to conduct business over the Internet without the use of a hand-written signature. There are two broad categories of electronic authentication technology; electronic signatures and digital signatures.

B. Electronic Authentication

1. Overview of electronic signature and digital signature technology

While both electronic and digital signatures may serve as substitutes for handwritten signatures, there are distinct differences between the two technologies. “Electronic signature” technology generally refers to using any identifiers such as letters, characters, or symbols that are created by electronic or similar means with the intent to authenticate a writing. Examples of electronic signatures include a name typed at the end of an email message by the sender, a digitized image of a handwritten signature that is attached to an electronic document and a personal identification number (PIN). In contrast, “digital signature” technology generally refers to using an electronic identifier that utilizes an information security measure, such as public key encryption, to ensure the integrity, authenticity, and nonrepudiation of a signature.

2. State electronic and digital signature initiatives

Most state legislation on electronic authentication addresses either electronic signatures or digital signatures, but not both. However, several states have enacted legislation that includes definitions of both electronic and digital signatures. These states include Illinois, Florida, Indiana, Mississippi, and New Hampshire. In many of the states that have adopted electronic authentication legislation, the legislation does not properly distinguish between electronic signatures and digital signatures. Therefore, several state statutes use the term “digital signature” when in practice it is being used as an “electronic signature”. These states include California, Georgia, Illinois and Nebraska. Other states use

the terms electronic signature and digital signature, but do not define them in their statutes. These states include Arizona, Connecticut, and Hawaii.

Another difference among the states that have enacted electronic authentication legislation is the categories of transactions covered. Many states authorize the use of electronic signatures only for transactions involving government agencies, while other states have limited the type of transaction in which the use of electronic signatures is authorized. These types of transactions include the following: gaining access to medical records; filing motor vehicle registrations; filing judicial forms and documents; and filing tax returns. A comparison of state legislation is included as **Appendix D**.

3. Approaches to electronic authentication legislation

State legislative efforts in the area of electronic authentication have typically fallen into three categories: Signature enabling legislation, criteria-based legislation and prescriptive legislation. However, within these categories, state laws vary as to their application and scope.

- **Signature enabling legislation**

As of July 1999, twenty-four states, including Colorado, Massachusetts, Mississippi and Virginia, had enacted signature enabling electronic authentication legislation. Generally, these states define an “electronic signature” as any symbol in an electronic message used as an identification mark by the sending party. An example of an electronic transaction that is authorized under this type of legislation is password access to a website. The advantages of signature enabling legislation are that it is technology neutral, easy to understand and implement, and supports a broad range of electronic verification methods. The disadvantages of this type of legislation are that the laws do not provide guidance on what constitutes an acceptable electronic signature and individuals and businesses may be reluctant to use this type of technology for sensitive transactions due to the lack of security measures.

- **Criteria-based legislation**

As of July 1999, eleven states, including California, Kansas, and Georgia, had enacted electronic authentication legislation that places limitations on the type of electronic signatures that are considered legally valid. Almost all of these states in this category have applied the same five criteria to electronic signatures. These state statutes are modeled after the California law passed in 1995. These five criteria specify that the electronic signature must be:

1. unique to the person using it;
2. capable of verification;
3. under the sole control of the person using it;
4. linked to the data so that if the data is changed, the signature is invalid;
and
5. in conformance with regulations adopted by the implementing state government entity.

An example of an electronic transaction authorized under this type of legislation is purchasing an item over the Internet using a credit card. The advantages of criteria-based electronic signature legislation are that specific criteria reduce doubts about acceptable methods of authentication and that the verification method can be technology neutral depending upon the criteria specified in the legislation. The disadvantage of criteria-based electronic signature legislation is that it could discourage development of new technologies if the criteria are too specific or if they depend upon a single technology for implementation.

- **Prescriptive legislation**

As of July 1999, nine states, including Utah, Illinois, Oregon and Washington, had enacted prescriptive electronic authentication legislation. This type of electronic authentication legislation serves the purpose of enabling and facilitating electronic commerce through the recognition of digital signature technology. In this type of legislation, electronic transactions utilize cryptographic methods to provide electronic authentication. There are generally two types of cryptographic methods: symmetric, which uses a single key to lock and unlock data, and asymmetric, which uses separate keys to lock and unlock data. Private keys are used to code information while public keys are used to decode information. Public key cryptography is used to ensure the confidentiality of data and to verify the authenticity and integrity of transmitted data.

Digital signature technology involves three processes: public/private key generation; public key cryptography; and public key infrastructure (PKI). Typically, the use of a PKI system involves a third party whose purpose is to associate a person or entity on one end of a transaction with the person using a key pair to create a digital signature. These third parties are called certificate authorities and can be either government agencies or private commercial companies. Certificate authorities accept applications, verify identities, issue certificates, revoke certificates and provide status information. There are three types of PKI systems used to establish digital signature verification:

1. a closed system where the entity accepting the transaction issues a certificate;

2. an open system where the entity accepting the transaction does not issue a certificate and may not know the certificate authority; and
3. an open, but bounded system where a negotiated contractual agreement exists between open partners for specific applications.

The advantages of prescriptive electronic authentication legislation are that it establishes a specific method of authentication, it provides a high level of confidence in the identity of the signer, and it ensures that data has not been altered during its transmission. The disadvantages of prescriptive electronic authentication legislation are that it is not technology neutral, its implementation is complex, and its technology is difficult for users to understand.

While there is not uniformity in state legislation dealing with electronic authentication legislation, most states at a minimum have enabled electronic commerce by recognizing that the primary objective of electronic authentication is the removal of barriers associated with traditional writing and signature requirements.

4. Federal government initiatives

Although the federal government has yet to adopt digital signature legislation, it has authorized the use of electronic authentication technology for governmental transactions in several pieces of legislation.

In 1998, Congress passed the Government Paper Elimination Act with the intent of making governmental forms available electronically. The Act also specifies that electronic records that are submitted or maintained in accordance with the procedures in the Act are not to be denied legal effect because they are in electronic form. The Internal Revenue Restructuring and Reform Act of 1998 requires the Secretary of Treasury to develop procedures and regulations enabling the electronic filing of federal tax returns and the acceptance of electronic and digital signatures. In September of 1999, the General Services Administration under the Access Certificate for Electronic Services Program, awarded the first series of digital signature contracts for public key infrastructure services. These certificates will allow individuals a secure, uniform way to conduct business with the federal government electronically.

C. Uniform Electronic Transactions Act

Although commercial transactions are occurring over the Internet, there is currently uncertainty regarding the legal validity of electronically created contracts and the evidentiary acceptability of electronic records and documents. In an attempt to provide certainty, states enacted differing state statutes regarding electronic and digital signatures. In response to this non-uniformity, the National Conference of Commissioners on Uniform

State Laws established a drafting committee to create a uniform act in the area of electronic transactions.

The National Conference of Commissioners on Uniform State Laws (“NCCUSL”) is comprised of primarily lawyers, judges and law professors appointed by the states and includes representatives from each state. NCCUSL’s primary task is to determine the areas of the law that would benefit from uniformity, and to develop and recommend uniform laws to state legislatures for enactment.

After several years and numerous drafts, the Uniform Electronic Transactions Act (“UETA”) was approved by NCCUSL in July of 1999. The purpose of UETA is to establish legal recognition of electronic records and electronic signatures. UETA allows the use of electronic records and electronic signatures in any transaction, with limited exceptions. UETA is a procedural statute and does not mandate either electronic signatures or records. Adoption of UETA will ensure that manual signature requirements will not be barriers to electronic transactions. UETA also authorizes state governmental entities to create and receive records electronically.

Another feature of UETA is that it defines and gives validity to electronic signatures. An electronic signature is defined in UETA as “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” The definition covers a variety of signatures. A digital signature using encryption technology and a person’s name at the end of an e-mail message would both qualify as electronic signatures as long as in each case the person intended to sign the record.

D. Electronic Credit Card Payments to State Agencies

As individuals become accustomed to using the Internet for private transactions, more demand is being put on state agencies to provide services on-line. In response to that demand, state agencies are looking for acceptable ways for the public to pay for services delivered via the Internet. Although Maine law (5 MRSA §1509-A) permits agencies to accept payment for goods, services and fees by major credit cards, state agencies have been reluctant to accept receipt of payment by credit card because credit card companies require a merchant fee of 1% to 3% of the amount charged on each payment. This is a fee paid by the merchant (state agency) to the credit card company. These fees are expensive for state agencies to pay and Maine law does not allow an agency to pass that fee on to the consumer. Therefore, state agencies must absorb these costs within their existing budgets. In addition to Maine’s prohibition on passing fees on to consumers, the major credit card companies do not allow governments to pass the merchant fee imposed by credit card companies to consumers.

According to the Government Finance Officers Association, states have responded to the credit card company prohibitions on passing the merchant fee on to consumers in a number of ways. Some states use outside vendors to process credit card transactions.

The credit card companies have generally not opposed passing on the fees when an outside vendor is used. Some states pass the fees on to consumers until the credit card company discovers it. Still other states have stopped the use of credit cards altogether.

Major credit card companies maintain that cardholders should not have to pay for the use of credit cards since it is a substitute for cash. They also maintain that the use of a credit card is a value to governments in cost savings that result from more efficient and timely payment. Additionally, credit card companies maintain that their merchant fees are just another cost of doing business and that if government passed these fees on to consumers, the fees would fall disproportionately on low and moderate income citizens.

The primary issues that arise when considering electronic credit card payments to state agencies are whether Maine should require, instead of simply permitting, state agencies to accept payment by credit card and whether Maine should allow an agency to pass the merchant fee on to the consumer.

E. E-commerce and E-government in Maine

1. Business incentives

Technology-oriented businesses are one of the fastest growing industries in the United States. According to a 1999 Milliken Institute Report, *"America's High Tech Economy: Growth, Development and Risks for Metropolitan Areas"*, in 1998 more than 50% of total business capital spending was in the area of information technology. Maine has three types of technology enterprises: existing Maine businesses that have the potential to grow through electronic information exchange; entrepreneurial Internet-based businesses; and established e-commerce firms.

Currently, the State of Maine offers a number of performance-based economic development incentive tools to assist both in-state employers and out-of-state employers to conduct their business. These incentives include a number of tax-related initiatives, a reduction in workers' compensation costs, employee training programs, a modern, competitive telecommunications infrastructure and low interest loan and grant programs. These initiatives are aimed at creating high quality jobs and encouraging investments in technology, research and development. Maine is spending a significant amount per year to support these programs.

According to the Department of Economic and Community Development, the following economic development incentives offered by the State are the ones most likely to be used by technology-oriented businesses:

- Maine Quality Centers Program
- Governor's Training Initiative

- Business Property Tax Reimbursement (BETR)
- Employer-Assisted Daycare Credit
- Employment Tax Increment Financing (ETIF)
- High Technology Investment Tax Credit
- Jobs and Investment Tax Credit
- Custom Computer Programming Sales Tax Exemption
- Manufacturing Sales Tax Exemption
- Fuels and Electricity Sales Tax Exemption
- Major Business Expansion Program (FAME)
- Small Enterprise Growth Fund
- Maine Technology Investment Fund (MSTF)
- Municipal Tax Increment Financing
- Business Assistance Program
- Economic Development Infrastructure Grant Program
- Development Fund Loan Program

A summary of each of these incentive programs is included as **Appendix**

E.

Other strengths that Maine offers to high-technology businesses are the productivity of its workforce and its quality of life.

There are several areas that Maine needs to continue improving in order to increase its success in attracting high-technology business to the State. These areas include the following: lowering corporate income taxes; lowering personal income taxes; increasing the education levels of its workforce; increasing transportation access; and increasing research and development industry areas.

2. Maine Business Works

Another economic development program that the State offers is Maine Business Works. The goal of Maine Business Works is to unify economic development initiatives in Maine by providing information to interested individuals and businesses regarding the variety of economic development resources available throughout the entire State; creating a virtual electronic communications Internet-based tool linking Maine's economic development agencies, the private sector and the public; and developing a partnership uniting Maine economic development service providers in the pursuit of these common goals and objectives.

Maine Business Works was initially conceived in 1996 as a wide-area network (WAN) connecting the Economic Development Districts of Maine with the University of Southern Maine's Center for Business and Economic Development (CBER) and the Maine Small Business Development Centers (MSBDC). A proposal for funding the Maine Economic Development Network (as it was originally named) was prepared and submitted by CBER. As a result, a

grant was received from the Department of Commerce Telecommunication Infrastructure and Information Assistance Program (TIIAP). Matching funds were received from the State of Maine through the Department of Economic and Community Development (DECD). The Maine Economic Development Network project was one of fourteen statewide telecommunication projects funded by the TIIAP grant in 1996.

The Maine Business Works website, located at www.MaineBusinessWorks.org, provides individuals, business owners and service providers electronic access to a vast array of up-to-date economic development information. The website promotes the state's programs and resources and provides a single source of economic development information to anyone considering starting a business, expanding a current business, or bringing an existing business to Maine. Specifically, the website provides the following types of information:

- information and links to organizations that comprise Maine's economic development community;
- financial programs and resources available to small businesses;
- a comprehensive resource library and calendar of small business events, conferences and training programs,
- a database containing commercial and industrial real estate listings,
- an internal network for economic development service providers and their programs; and
- a search function to help an individual find information within the Maine Business Works website.

3. Information Resource of Maine (InforME)

In 1998, the Legislature enacted the InforME Public Information Access Act in Public Law 1997, chapter 713. The Information Resource of Maine, InforME, is a public/private long-term partnership to build a gateway network to public information for citizens and businesses through Internet technology. InforME provides application development and marketing of state agencies products and services through service level agreements. InforME is a self-supporting entity and generates revenue through fees or surcharges on premium services paid by subscribers and from money, goods or in-kind services donated or awarded from non-General Fund sources.

InforME is operated by a private network manager. Oversight is provided by the InforME Board, a 17-member entity that includes, but is not limited to, members from state agencies who are major data custodians, a representative from the University of Maine System, a representative of an association of municipalities, a non-profit organization advancing citizens' rights of access to information, and a representative of an association of public libraries. The

InforME board sets policy and approves fees for InforME services. The Department of Administrative and Financial Services, Bureau of Information Services, provides staff to the InforME board. InforME is required to conduct an annual audit and to submit an annual report to the Legislature. In addition, the State's Chief Information Officer provides oversight of the Network Manager.

Maine is one of nine states that currently have Internet gateways, with Maine being the only state in the Northeast. Public/private Internet gateways are established in response to the following factors: the public demands more responsive access, state databases are not electronically accessible, the state lacks resources to invest in technology, the existence of a disparity in web standards, presentation and navigation, and cost inequities and duplication between agencies.

The advantages of Internet gateways include the following: accelerated electronic access to public information, expanded information through the Internet, voluntary participation by state agencies, and a single point of contact for the public.

F. Municipal Linkage

1. Overview

Increasingly, Maine citizens are demanding efficient delivery of government services at all levels of government. The use of technology by Maine citizens in both rural and urban areas of the State is also increasing. One way to satisfy citizens' demand for governmental services is to assist municipalities in increasing their use and access to technology. Currently, several hundred municipalities do not have technology in place to enable the coordination of government services using the Internet.

The Internet can potentially provide small local governments with access to a wealth of information and services, and can provide the following:

- Citizen access to community information and governmental services;
- Enhanced communication among municipalities and between municipalities and other levels of government; and
- An electronic link between local governments and state agencies to improve efficiency and accountability.

2. Maine Governmental Information Network Board

The Maine Governmental Information Network Board was established by Public Law 1999, chapter 428. The board was established to enhance electronic data exchange among state and local governments and other providers of governmental services. The board oversees the computer network that connects individual municipal governments and other governmental service providers. The board consists of seven members including the Secretary of State and the Director of the Bureau of Information Services, two public members, two members representing municipalities' interests and a member with technical expertise in electronic communications. The Office of the Secretary of State provides administrative support to the board and is responsible for all regular operations of the board.

The board's powers and duties include the following:

- Overseeing the construction and operation of a computer network to connect state, local and regional governments;
- Enabling electronic access to the electronic data resources of any state agency whose data enhances the delivery by a municipal government or county government of state services;
- Providing grants to municipalities and counties for the purchase of computer hardware, software and peripherals necessary to connect the municipalities and county governments with state data and information systems;
- Contracting to provide technical support to municipal and county information network participants;
- Contracting to provide basic computer training and instruction in the operation of the statewide computer network; and
- Employing consultants and accepting and using any funding available to the board.

Chapter 428 also created the Maine Governmental Information Network Fund to carry out the purposes of the law. However, limited funding of \$1,000 for Fiscal Year 2000-2001 was allocated to the Fund.

IV. FINDINGS AND RECOMMENDATIONS

1. Uniform Electronic Transactions Act

Findings: The Commission finds that electronic commerce is expanding rapidly and can contribute to economic growth in the State. The Commission also finds that uniformity among state laws recognizing the validity and enforceability of electronic signatures, records and writings is important to the continued expansion of electronic commerce. The Commission further finds that the model Uniform Electronic Transactions Act, when adopted by the states, will provide certainty and uniformity in the area of electronic transactions. Additionally, the Commission finds that UETA is: (1) permissive - it does not mandate the use of electronic signatures; (2) technology neutral; and (3) applicable to both private transactions and public transactions.

Recommendation: The Commission recommends the Legislature adopt the Uniform Electronic Transactions Act in Maine. (Draft legislation that implements the Commission's recommendation for adoption of UETA is included as Appendix F.)

2. Digital signature legislation

Findings: The Commission finds that although the definition of electronic signature in UETA is broad enough to encompass digital signatures, legislation that specifically sets criteria for digital signature use in Maine is necessary. The Commission further finds that digital signature legislation in Maine should encompass the following principles:

- The use of digital signatures should be at the option of the parties to the transaction;
- Regulation of digital signatures should be technology neutral;
- Security procedures should be required; and
- Digital signatures for transactions involving state governmental entities should conform to regulations adopted by the Secretary of State.

Recommendation: The Commission recommends the Legislature consider enacting digital signature legislation in the Second Regular Session of the 119th Legislature. (Draft legislation that implements the Commission's recommendation for regulation of digital signatures is included as Appendix G.)

3. Credit card payments to state agencies

Findings: The Commission finds the following regarding credit card use by state agencies:

- a) that state agencies should make their services accessible to consumers over the Internet and that acceptance of credit cards by state agencies for agency services will encourage consumers to use the Internet for the provision of those services;
- b) that passing credit card surcharges on to consumers would not encourage consumers to use the Internet, but in fact would discourage use by consumers; and
- c) that the State's contract with the major credit card companies includes a merchant fee that is higher than the Commission believes it could be. The Commission also finds that if the State obtained a lower credit card merchant fee, the fee that an agency must absorb within its existing budget would be lowered.

Recommendations: The Commission recommends the following regarding credit card use by state agencies:

- a) that the State require agencies to accept credit cards;
- b) that Maine law continue to provide that credit card surcharges not be passed on to the consumer; and
- c) that the State negotiate with credit card companies for a lower merchant fee on credit card transactions with state agencies.

(Draft legislation that implements the Commission's recommendation to require agencies to accept credit cards is included as Appendix H.)

4. Electronic payments to state agencies

Findings: The Commission finds that citizens' demands for access to state government services electronically are increasing and that state government needs to be responsive to those demands. The Commission further finds that citizens' demands for paying for governmental services by electronic means, in addition to credit cards, are increasing and will continue to increase in the future. The Commission further finds that the infrastructure for processing these electronic payments appears to be inadequate and requires further study.

Recommendation: The Commission recommends that, by February 15, 2000, the State Treasurer's Office study and develop procedures to enable state agencies to accept payments for goods and services by electronic means, including but not limited to electronic funds transfer, and report to the Joint Standing Committee on Business and Economic Development on its progress.

5. Statutory impediments to electronic commerce

Findings: The Commission finds that there may be existing language in Maine law that could impede the use of electronic commerce in Maine, particularly for purchasing governmental products and services. An example of one such impediment may be statutory language providing that an individual must appear in person in order to transact business with a governmental agency. The Commission finds that identifying these types of statutory provisions is necessary to allow for the purchase of governmental services electronically.

Recommendation: The Commission recommends that the Legislative Council direct the nonpartisan staff to conduct a study to identify existing impediments to electronic commerce in Maine law and that the study report be submitted to the Joint Standing Committee on Business and Economic Development by December 1, 2000.

6. Maine Governmental Information Network

Findings: The Commission finds that to adequately serve the citizens of Maine, local governments should increase their use and access to technology. Thus, the Commission finds that the Maine Governmental Information Network should be appropriately funded so that it may begin its work of enhancing electronic data exchange among state and local governments and other providers of governmental services. The Commission further finds that the Joint Standing Committee on Utilities and Energy should be the legislative body to study and recommend a funding mechanism(s) for the Maine Governmental Information Network.

Recommendation: The Commission supports funding for the Maine Governmental Information Network and recommends that the Joint Standing Committee on Utilities and Energy consider a variety of funding mechanisms for the Maine Governmental Information Network and report out legislation containing its proposal for the appropriate funding mechanism(s) during the Second Regular Session of the 119th Legislature.

7. Business incentives

Findings: The Commission finds that enabling the growth of existing high-quality businesses and attracting new investment to Maine is essential to the expansion of Maine's economy. The Commission further finds that Maine currently offers a comprehensive package of performance-based economic development incentives to businesses; however, the Department of Community and Economic Development, which facilitates and coordinates access to these programs, should improve the process by which information

about these programs is distributed in order to promote Maine's economic development incentives among both in-state and out-of-state businesses.

Recommendation: The Commission recommends that the Commissioner of the Department of Economic and Community Development initiate a process to simplify, streamline and promote existing performance-based business incentive programs, particularly those related to technology, and report to the Joint Standing Committee on Business and Economic Development by January 1, 2001 on the department's progress. The report should include proposed legislation, if any, necessary to implement this recommendation.

8. Joint Standing Committees

Findings A:

The Commission finds that technology-related issues will continue to be an important factor in the State's economic development and that the Legislature should be consistent in its approach to dealing with these types of issues. Thus, the Commission finds that the Joint Standing Committee on Business and Economic Development, which currently has jurisdiction over business and economic development issues, should be given jurisdiction over technology-oriented legislation. The Commission further finds that the name of the Joint Standing Committee on Business and Economic Development should be changed in order to reflect the committee's new jurisdiction and to promote the Legislature's commitment to the development of technology in the State.

Recommendation A: The Commission recommends that the Joint Rules of the Legislature be amended to change the name of the Joint Standing Committee on Business and Economic Development to the Joint Standing Committee on Commerce and Technology to bring under its jurisdiction emerging technology-oriented business development issues.

Findings B:

The Commission finds that the telecommunications industry is rapidly expanding and that the number of legislative proposals concerning telecommunications is increasing. The Commission further finds that the name of the Joint Standing Committee on Utilities and Energy, which currently has jurisdiction over telecommunications issues, should be changed to reflect the number and variety of telecommunications issues considered by that committee.

Recommendation B. The Commission recommends that the Joint Rules of the Legislature be amended to change name of the Joint Standing Committee on Utilities and Energy to the Joint Standing Committee on Utilities, Energy and Telecommunications to reflect the variety of telecommunication issues that the committee currently has under its jurisdiction.

9. Extension of Commission

Findings: The Commission finds that the issues it was charged with studying are complex and require additional study. These issues include the following, as they relate to the Internet and information technology in Maine: E-commerce, E-government and Maine's Freedom of Access law, education, consumer privacy, Internet abuses, hate mail and pornography, electronic crimes, Internet access and business development. The Commission further finds that in order to complete its examination of these complex issues it will require additional meetings with corresponding additional funding.

Recommendation: The Commission recommends that **Resolve 1999, chapter 89 be amended to extend the Commission into the legislative interim following the Second Regular Session of the 119th Legislature to continue its work in the following areas as they relate to the future of the Internet and information technology in Maine: E-commerce, E-government and Maine's Freedom of Access law, education, consumer privacy, Internet abuses, hate mail and pornography, electronic crimes, Internet access and business development. (Draft legislation that implements the Commission's recommendation for additional meetings is included as Appendix I.)**

References

- Carmel, Eisenach and Lenard, *The Digital Economy Factbook, First Edition* (Washington, DC: The Progress and Freedom Foundation, 1999).
- Department of Economic and Community Development, "State of Maine Business Incentives, Business Assistance and Business Climate Information," June 1999
- DeVol, R., *America's High-tech Economy: Growth, Development, and Risks for Metropolitan Areas* (Miliken Institute, 1999). +
- Forrester Research Inc., "Internet Services Hypergrowth," February 1999, www.forrester.com
- Forrester Research Inc., "Unlocking Home Business," December 1998, www.forrester.com
- Gidari, Morgan and Coie, "Survey of State Electronic and Digital Signature Legislative Initiatives in the United States," September 1997, www.ilpf.org
- Gidari, Morgan and Coie, "Update: Survey of Electronic and Digital Signature Legislative Initiatives in the United States," April 1998, www.ilpf.org
- Government Finance Officers Association, "GFOA Fact Sheet, Credit Card Fees and Surcharges," 1998, www.gfoa.org
- Gwadowsky, Dan, "InforMe, A Gateway to Democracy", PowerPoint presentation, September 1999
- Harreld, H., "Digital Signatures Key to Cross-governmental Biz," *Marketplace*, October 1999.
- Houlihan, Dan, "Digital Signatures, Technology for Secure Electronic Commerce: A Brief Overview" PowerPoint presentation given on November 1999.
- McBride, Baker and Coles, "Scope of Authorization to Use of Electronic Signatures in Enacted Legislation," May 1999, www.mbc.com
- McBride, Baker and Coles, "Definition of the Term "Electronic Signature in Enacted Legislation," May 1999, www.mbc.com
- McBride, Baker and Coles, "Definitions of the Term Digital Signature in Enacted Legislation," May 1999, www.mbc.com
- Slanis Technology, Inc., "Electronic and Digital Signatures – An Overview: U.S. Federal Legislation and Standards," 1999

Smedinghoff, T.J., "Digital Signatures: the Key to Secure Internet Commerce, An Overview of Law and Legislation," National Conference of State Legislatures Annual Meeting, July 1998

United States Internet Commission, "State of the Internet: USIC's Report on the Use and Threats in 1999," August 1999, www.usic.org

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APPENDIX A

Resolve 1999, chapter 89

APPROVED

CHAPTER

JUN 17 '99

89

BY GOVERNOR

RESOLVES

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-NINE

—
S.P. 763 - L.D. 2155

**Resolve, to Establish the Blue Ribbon Commission to
Establish a Comprehensive Internet Policy**

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 Internet and its use continues to grow and it is essential to ensure delivery of social and economic benefits to the State; and

Whereas, it is necessary to consider what type of statewide computing and communications investment strategy will stimulate public investment and create more opportunities and incentives for information technology business to locate in the State; and

Whereas, it is imperative to address how to develop and maintain a highly qualified information technology workforce to support business growth; and

Whereas, it is essential to create a business and regulatory policy that will ensure that Maine is an attractive location for information technology companies and their employees; and

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

Sec. 1. Commission established. Resolved: That the Blue Ribbon Commission to Establish a Comprehensive Internet Policy, referred to in this resolve as the "commission," is established; and be it further

Sec. 2. Commission membership. Resolved: That the commission consists of 12 voting members and 6 nonvoting members.

1. The commission consists of 12 voting members as follows:

A. Three members of the Senate, at least one of whom is a member of the Joint Standing Committee on Business and Economic Development, appointed by the President of the Senate;

B. Two members of the House of Representatives, at least one of whom is a member of the Joint Standing Committee on Business and Economic Development, appointed by the Speaker of the House;

C. One representative of the large Internet service providers industry, appointed by the President of the Senate;

D. One representative of the small Internet service providers industry, appointed by the Speaker of the House;

E. One representative of the Maine Software Developers Association, appointed by the Speaker of the House;

F. One representative of the telecommunications industry, appointed by the President of the Senate;

G. One representative of the cable television industry, appointed by the Speaker of the House;

H. One representative of the Maine Bar Association, appointed by the President of the Senate; and

I. One representative of the Maine Civil Liberties Union, appointed by the Speaker of the House.

2. The commission consists of 6 nonvoting members as follows:

A. One representative of the University of Maine System, appointed by the Chancellor of the University of Maine System;

B. The Commissioner of Economic and Community Development or the commissioner's designee;

- C. The Secretary of State or the secretary's designee;
- D. The State Librarian or the State Librarian's designee;
- E. One representative of the Public Advocate's Office, appointed by the Governor; and
- F. One representative of the Public Utilities Commission, appointed by the Governor.

Sec. 3. Appointments; meetings. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The Executive Director of the Legislative Council must be notified by all appointing authorities once the selections have been made. Within 15 days after appointment of all members, the Chair of the Legislative Council shall call and convene the first meeting of the commission. The first named Senate member is the Senate chair and the first named House member is the House chair; and be it further

Sec. 4. Duties. Resolved: That the commission shall study issues related to the future of information technology in the State, including, but not limited to:

1. The facilitation of electronic commerce for Maine citizens and businesses;
2. Making government more accessible to the citizens;
3. The use of the Internet and related technologies to improve education throughout the State;
4. The protection of Internet users' and citizens' privacy;
5. The mitigation of Internet abuses including transmission of unsolicited bulk e-mail or spam;
6. The regulation of hate mail and pornography;
7. The elimination of electronic crimes;
8. The promotion of Internet access for citizens throughout the State; and
9. The promotion of business development in the areas of electronic, Internet-based and information technology businesses throughout the State; and be it further

Sec. 5. Staff assistance. Resolved: That the commission may request staffing assistance from the Legislative Council; and be it further

Sec. 6. Compensation. Resolved: That legislative members are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of the commission; and be it further

Sec. 7. Report. Resolved: That no later than December 1, 1999, the commission shall submit its report, together with any necessary implementing legislation, to the Joint Standing Committee on Business and Economic Development and the Executive Director of the Legislative Council. The Joint Standing Committee on Business and Economic Development is authorized to report out a bill during the Second Regular Session of the 119th Legislature concerning the findings and recommendations of the commission.

If the commission requires an extension, it may apply to the Legislative Council, which may grant the extension; and be it further

Sec. 8. Appropriation. Resolved: That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

1999-00

LEGISLATURE

Blue Ribbon Commission to Establish a Comprehensive Internet Policy

Personal Services	\$1,375
All Other	1,750

Provides funds for the per diem and expenses of legislative members of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy and to print the required report.

LEGISLATURE

TOTAL

\$3,125

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

APPENDIX B

List of Commission Members

**BLUE RIBBON COMMISSION TO ESTABLISH A COMPREHENSIVE INTERNET
POLICY**

**Chapter 89, Resolves of 1999
Emergency**

Membership 1999

Appointments by the Governor

Phillip Lindley
Maine Public Utilities Commission
18 State House Station
Augusta, Maine 04333

Representing Maine Public Utilities
Commission

Eric J. Bryant
Office of the Public Advocate
112 State House Station
Augusta, Maine 04333

Representing the Public Advocate's Office

Appointments by the President

Senator Carol Kontos, Chair
PO Box 1785
Windham, Maine 04062
Tel: 892-3474

Senator Neria Douglass
465 West Auburn Road
Auburn, Maine 04210
Tel: 784-8497

Senator Philip Harriman
PO Box 790
Yarmouth, Maine 04096
Tel: 846-0799

Anthony E. Perkins, Esq.
Bernstein, Shur, Sawyer & Nelson
100 Middle Street, West Tower
PO Box 9729
Portland, Maine 04104-1200

Representing the Maine Bar Association

Linda A. Monica, Esq.
Verrill & Dana
One Portland Square
Portland, Maine 04112-0586

Representing the Telecommunications Industry

Paul Russinoff, Director
State Public Policy
America Online Incorporated
1101 Connecticut Avenue, NW
Suite 400
Washington, DC 20036

Representing a Large Internet Service Provider

Appointments by the Speaker

Representative Thomas M. Davidson, Chair
PO Box 446
Brunswick, Maine 04011
Tel: 721-0747

Representative Jean Ginn Marvin
49 Cranbrook Drive
Cape Elizabeth, Maine 04107
Tel: 799-5326

James Mays, Ph. D.
President, Micronautics Inc.
PO Box 1428
Camden, Maine 04843

Representing Maine Software Developers
Association

Sally Sutton
Executive Director, MCLU
233 Oxford Street, Suite 32K
Portland, Maine 04101

Representing Maine Civil Liberties Union

Matthew Jancovik
Waterville Online
2 Highland Avenue
Waterville, Maine 04901

Representing Small Internet Service
Provider Industry

Michael L. Edgecomb
83 Anthony Avenue
PO Box 1076
Augusta, Maine 04330

Representing Cable Television Industry

**Appointment by the Chancellor
University of Maine System**

Sam Levy
Executive Director, UNET
107 Maine Avenue
Bangor, Maine 04401
Tel: 973-3234

Representing the University of Maine System

Ex Officio

Alan Brigham
Director of Policy and Planning
Department of Economic and Community Development
59 State House Station
Augusta, Maine 04333
Tel: 287-2656

Commissioner's Designee for the Department of
Economic and Community Development

Hon. Dan A. Gwadosky
Secretary of State
148 State House Station
Augusta, Maine 04333
Tel: 626-8400

Secretary of State

Gary J. Nichols
State Librarian
64 State House Station
Augusta, Maine 04333
Tel: 287-5600

State Librarian

Staff: Susan Johannesman, Office of Policy and Legal Analysis
Darlene Shores Lynch, Office of Policy and Legal Analysis
287-1670

APPENDIX C

Commission meeting summaries

BLUE RIBBON COMMISSION TO ESTABLISH A COMPREHENSIVE INTERNET POLICY

Meeting Summary from the September 27, 1999 Meeting

Commission Members Present:

- Sen. Carol Kontos, Chair
- Sen. Neria Douglass
- Rep. Thomas Davidson, Chair
- Rep. Jean Ginn Marvin
- Anthony Perkins
- Linda Monica
- James Mays
- Sally Sutton
- Matthew Jancovik
- Michael Edgecomb
- Sam Levy
- Phillip Lindley
- Eric Bryant
- Alan Brigham
- Dan Gwadosky
- Gary Nichols

Commission Staff: Susan Johannesman, Darlene Shores Lynch

Convening of Commission: Senator Kontos welcomed the Commission members and thanked them for their willingness to participate in this legislative study. Senator Kontos noted that the Commission should identify issues that need to be addressed now as well as issues that will need to be addressed in the future. Representative Davidson agreed and noted that the Commission should identify the top five things that need to be done for the people of Maine. Senator Kontos noted that the Joint Standing Committee on Business and Economic Development carried over several Internet bills to the Second Session. She requested Commission staff to provide members with copies of the carry over bills.

Review of Commission's Charge: Commission staff reviewed the Commission's charge and its reporting date of December 1, 1999. The general charge, spelled out in the law creating the Commission (1999 Resolves, Chapter 89), directs the Commission to study issues related to the future of information technology in the State.

InforME: Dan Gwadosky, Janet Grard and Rebecca Wyke of the Office of the Secretary of State provided an overview of the InforME system. InforME is a public/private system of delivery of government services and information to citizens and businesses via Internet technology. The system was created pursuant to Public Law 1997, chapter 713. Dan Gwadosky noted that Maine is one of nine states that currently have Internet gateways with Maine being the only state in the northeast. A common factor among the nine states is that they are geographically large. The advantages of Internet gateways include accelerated electronic access to public information, expanded information through the Internet, financially self-supporting, voluntary participation by state agencies, and a single point of contact for the public. Public/private Internet gateways are established in response to the following factors: the public

demands more responsive access, state databases are not electronically accessible, the state lacks resources to invest in technology, disparity in web standards, presentation and navigation, and cost - inequity between agencies and duplication. The private partner provides cutting edge technology and marketing expertise.

Members requested copies of the InforME enabling statute and a printed version of Dan Gwadosky's powerpoint presentation.

Rebecca Wyke presented information on four topics: (1) She noted that InforME has been approved to take over the state's homepage. The homepage will provide a key word search capability for all agency sites, a task oriented search application for all agency sites that provides easy to understand instruction on how to perform tasks, the ability to provide live video and audio via the website and the ability to search and update agency databases online. (2) She noted that State agencies and municipalities should automate the coordination of government services using the Internet as a conduit by the creation of a municipal network. (3) She addressed the collection of fees for government services via the Internet. She noted that current state law requires the cost of administering credit card payments to be absorbed within the existing budgets of state agencies. She suggested that an alternative would be to allow the cost of the credit card service to be taken out of the fee due that agency or to allow citizens wishing to use a credit card to pay for the cost associated with that service. (4) Her final comments addressed the need for the creation of a system for verifying digital signatures. A digital signature is a method of securing electronic documents that provides proof of origin, message integrity and non-repudiation. The system would assist the advancement of electronic commerce in Maine and would allow state agencies to provide for electronic filing of important documents via the Internet. Members noted that it is important for digital signature laws to be technology neutral.

Focus of study: The Commission discussed its charge and compiled a list of potential study issues organized under the broad themes of (1) e-commerce, (2) access to government, (3) education, (4) privacy, (5) Internet abuses, (6) hate crimes, (7) electronic crimes, (8) Internet access, and (9) business development. The list includes the following issues:

1. E-commerce
 - providers (departments/agencies)
 - credit card use
 - digital signatures
 - need for laws to be technologically neutral
 - infrastructure issues*
 - tax policy issues
 - uniform transaction laws*
 - municipal requirements
 - house-cleaning of statutes
 - blue laws
2. Government Access
 - public education/notification
 - timelines for accessibility
 - municipalities (mandates, MMA)

- formats/standards/funding
 - confidentiality/security
 - ME-Span/Internet broadcast of hearings
 - bill status
 - hours for public use
 - local access numbers
3. Education
 - K-12 and University (UNET)
 - access/standards
 - infrastructure/distance learning
 - research and development
 4. Privacy*
 - privacy lists
 - where do consumers go with complaints/Attorney General?
 - opt in vs. opt out of providing information
 - who has your information
 5. Internet abuses/spam
 - statement that legislature either should or should not get involved in this area
 6. Hate crimes
 - statement that legislature either should or should not get involved in this area
 7. Electronic crimes
 - statement that legislature either should or should not get involved in this area
 8. Internet access
 - low income community/PUC/Public Advocate
 - content providers
 9. Business development
 - Virginia model*
 - tax policy
 - access to capital/FAME/SBIC's*
 - Maine & Co./Chamber
 - leveraging the Internet for business development
 - IT training/workforce

- * infrastructure issues - Members requested the Maine Chamber and Business Alliance to submit information from its members on infrastructure issues.
- * uniform transaction laws - Linda Monica offered to provide the members with articles on the Uniform Transactions Act.
- * privacy - Commission members discussed the possibility of inviting a representative of the Attorney General's Office to a Commission meeting to discuss privacy issues.
- * Virginia model - Members requested staff to provide copies of the Virginia Internet legislation.
- * access to capital - Tony Perkins offered to provide the members with a copy of a SBA study.

Members agreed that all the topics on the list cannot be addressed by this Commission during the limited time frame it is authorized to meet. Commission staff were asked to work with the Chairs to submit a list of issues to the members prior to the next meeting.

Additional meetings: The Commission set the following four meeting dates:

- Meeting #2: Wednesday, October 13, 1999 / 9:00 a.m. - 12:00 p.m., Room 437
- Meeting #3: Monday, October 25, 1999 / 9:00 a.m. - 12:00 p.m., Room 438
- Meeting #4: Monday, November 8, 1999 / 9:00 a.m. - 12:00 p.m., Room 438
- Meeting #5: Monday, November 22, 1999 / 9:00 a.m. - 12:00 p.m., Room 438

BLUE RIBBON COMMISSION TO ESTABLISH A COMPREHENSIVE INTERNET POLICY

Meeting Summary from the October 13, 1999 Meeting

Commission Members Present:

- Sen. Carol Kontos, **Chair**
- Sen. Neria Douglass
- Sen. Philip Harriman
- Rep. Thomas Davidson, **Chair**
- Rep. Jean Ginn Marvin
- Anthony Perkins
- Linda Monica
- James Mays
- Sally Sutton
- Michael Edgecomb
- Sam Levy
- Phillip Lindley
- Eric Bryant
- Alan Brigham
- Dan Gwadosky
- Gary Nichols

Commission Staff: Susan Johannesman, Darlene Shores Lynch

Review of Summary from September 27th meeting: Commission members reviewed and accepted the summary of the September 27th meeting prepared by staff.

The University of Maine System and the Internet in Maine: Sam Levy, Executive Director of UNET presented information to the Commission on the UMS and the Internet. Mr. Levy noted three key Internet policy issues: (1) future support of Maine's universities in new information technology development will yield the same high returns that past support has yielded and expansion into broadband services is necessary to maintain competitiveness with institutions in other states; (2) maintaining complementary efforts in public and private Internet development is important; and (3) there is great value for Maine in maintaining a homogeneous network among public and non-profit agencies with similar charters.

Mr. Levy presented a brief history of the UMS's aggressive efforts in advancing Internet services for Maine beginning in 1981 when UMS established its first connection to network services outside Maine through BITNET to Yale. He also noted that growth rate in Internet activity has increased as high as 500% annually.

Mr. Levy noted the future directions of UNET include: (1) broadband to all campuses and centers; (2) local peering with other ISPs; (3) building a UMS education web portal; (4) new IP technologies; (5) online courses and programs [currently 2/3 of courses use the Internet and UMS has 138 sections available entirely on the Internet]; and (6) establishing video gateways and media servers.

Maine School and Library Network (MSLN): Linda Lord from the Maine State Library presented information to the Commission on the MSLN. Ms. Lord reported that the MSLN resulted from the PUC settlement of a NYNEX rate case in May 1995. Under that settlement, NYNEX was directed to provide up to \$4M a year for five years to Maine schools and public libraries for technology equipment, rates or services. The result was the MSLN, a 56kbps frame relay network providing Internet access and email capability to each Maine public and private school and public library that applied for the connectivity. Currently, 1155 schools and libraries are connected to the MSLN. Ms. Lord noted that because of high usage, 185 of the sites have been upgraded to T-1 capacity. 16 sites are scheduled to be upgraded in the near future. The MSLN has provided technical training to several people from each site as well as basic end-user training about how to access the Internet and use email. UNET provides help desk support and is the ISP and network manager for the MSLN.

Commission members briefly discussed legislation that came out of the Utilities Committee that set forth a formula that goes into effect in the year 2000. Commission members also discussed the expense of broadband services, but noted that although broadband services are currently expensive, it is likely that they may be cost-effective in the future.

Commission report: Commission members discussed the question of what will happen as a result of a report issued by the Commission. Committee members suggested there be an on-going commission established or a joint select committee established to deal with Internet issues. A suggestion was made that different issues could be farmed out to various groups to look at and report back to the Legislature with plans to deal with those issues. Commission members seemed to be in agreement that they should deal with issues that they can present to the next session of the Legislature.

Digital signatures: Commission staff presented information on digital signature legislation in other states. States which have passed digital signature laws have essentially enacted language which recognizes digital signatures to be legally binding as handwritten signatures. State digital signatures laws vary in their scope and definitions. The three types of digital signature laws enacted by states are: 1) general, where any form of electronic mark on a message qualifies as an electronic signature; 2) limiting, where specific criteria must be met, including that the signature must be unique to the person using it, capable of verification, and linked to the data so that if it is changed the signature will be invalidated; and 3) PKI-based digital signatures, where a certificate authority is used to regulate and implement digital signatures. While the general and limiting digital signature laws are technology neutral, the PKI based digital signature laws are not. Another difference among the state digital signature laws is their scope. Some states apply their statutes only to governmental transactions requiring a secure signature, other states apply their laws to specific types of governmental transactions, while other states apply their statute to both public and private transactions.

The Federal Government has yet to adopt legislation on digital signatures, although there are currently several bills pending on this issue. In September of 1999, under the Access Certificates for Electronic Services Program the Federal Government was authorized to issue business contracts to vendors to provide certificates for digital signatures. The goal of this effort is to allow people to conduct business with the Federal Government electronically. The

possibility may exist for states to parallel their digital signature efforts with those of the Federal Government.

There ensued a general discussion on digital/electronic signature legislation.

Christine Bruenn with the Bureau of Banking discussed LD 2072, An Act to Clarify the Admissibility of Electronic Records and Signatures, which was carried over from the 1st regular session. She identified the concern of her agency that any legislation enacted in Maine should be enabling and should allow the agency to decide on an individual basis what type of controls are necessary depending on the type of document or transaction.

Mario Robello told the Commission that AT&T suggests that any legislation simply needs to make it clear that Maine allows for the digital signature process to take place.

Linda Monica noted that the Commission needs to look at the Uniform Electronic Transactions Act.

Senator Douglass noted that the first thing the Commission needs to do is to come to agreement on baseline definitions for “digital signature” and “electronic signature”.

Tony Perkins noted that the Commission does not have time to come up with legislation. He noted that the Commission needs to come up with a report that allows you to do electronically what you could otherwise do manually; subgroups could come up with legislation.

Mary Cloutier, Bureau of Information Services, suggested that the Commission could charge the Information Services Policy Board with developing guidelines for agencies to follow. Dan Gwadosky noted that the Information Services Policy Board may take a long time to come up with guidelines.

Sam Levy stated that the Commission should look at compelling agencies to use a single technology if they choose to use digital signatures.

Representative Davidson noted that the primary focus of the Commission is to make it easier for Maine people to interact with Maine government and Maine business.

Commission members generally agreed to the following principles for digital/electronic signature legislation:

1. It should be enabling.
2. It should be permissive, not mandatory.
3. It should be applicable to interactions with public agencies.
4. It should be applicable to private transactions.
5. It should be technology neutral.
6. It should include baseline definitions of digital signature and electronic signature.
7. It should establish basic criteria and guidelines that all agencies will have to meet.
8. It should direct each agency to do rulemaking by a date certain.

9. It should charge someone to study and report out legislation on other issues.

Credit card payments to agencies: Commission staff briefly presented information on current statutory limitations on credit card acceptance by Maine agencies. Current law provides that any administrative expenses or credit card fees incurred must be absorbed within the existing budget of the agency. Staff also presented information on other state's laws regarding the ability of state agencies to charge additional fees for credit card use. Pam Flagg from the State Treasurers Office noted that 14 agencies currently use credit card payments. She also noted that the Treasurers Office is in the process of entering into a new credit card contract. After a brief discussion, the Commission decided to discuss the issue at the next meeting.

Next meeting: The Commission will meet again on **Monday, November 8 at 9:00** in Room 438 of the State House.

BLUE RIBBON COMMISSION TO ESTABLISH A COMPREHENSIVE INTERNET POLICY

Meeting Summary from the November 8, 1999 Meeting

Commission Members Present:

- Sen. Carol Kontos, **Chair**
- Sen. Neria Douglass
- Sen. Philip Harriman
- Anthony Perkins
- Linda Monica
- James Mays
- Sally Sutton
- Michael Edgecomb
- Phillip Lindley
- Eric Bryant
- Alan Brigham
- Dan Gwadosky
- Gary Nichols

Commission Staff: Susan Johannesman, Darlene Shores Lynch

Review of Summary from October 13th meeting: Commission members reviewed and accepted the summary of the October 13th meeting prepared by staff.

DIGITAL SIGNATURES:

Technology for Secure Electronic Commerce: Dan Houlihan, General Manager for Virginia Information Providers Network gave a powerpoint presentation on digital signatures. Mr. Houlihan noted that the Internet generated \$301 billion last year. Business concerns regarding e-commerce include unauthorized purchases, impersonation/theft, and cost/complexity of security. Consumer concerns include safety of transactions, privacy of information, and computer viruses. Mr. Houlihan noted that signing a writing serves the following general purposes:

- (1) evidence - it authenticates a writing by identifying the signer with the signed document;
- (2) ceremony - the act of signing a document calls to signers attention the legal significance of the signer's act;
- (3) approval - it expresses the signer's authorization of the writing; and
- (4) logistics - it imparts a sense of clarity and finality.

Signature/transaction concerns include:

- (1) authenticity (is she who she says she is?);
- (2) authorization (is she approved to take the action?);
- (3) privacy/confidentiality (is the information being compromised?);
- (4) integrity (has the data changed in transmission?); and
- (5) non-repudiation (can she deny the action?).

Mr. Houlihan noted that it is important to differentiate between the terms “electronic” signature and “digital signature”. “Electronic signature” means **any** electronic method used for authentication that would meet the legal requirements for a signature. A person must have the intent to be bound or to authenticate. “Digital signature” is a **secure** electronic signature that uses a mathematical function and involves a verification process. There are varying technology approaches to digital signatures. Digital signature requirements include:

- (1) it is unique to the person using it;
- (2) it is capable of verification;
- (3) it is under the sole control of the person using it;
- (4) it is linked to data in such a way that if the data are changed, the digital signature is invalidated; and
- (5) it conforms to regulations adopted by the implementing state government entity.

Mr. Houlihan summarized types of cryptographic methods (symmetric and asymmetric); public/private key generation; public key cryptography; and public key infrastructure (PKI). The types of PKI include: (1) closed system - the entity accepting the transaction issues the certificate; (2) open system - the entity accepting the transaction does not issue the certificate and may not know the certificate authority; and (3) open but bounded system - a negotiated contractual agreement between open partners for specific application. Certificate authorities accept applications, verify identities, issue certificates, revoke certificates and provide status information. Registration authorities do not issue certificates, do adhere to certification practice statements, verify authority and confirm the identity of individuals requesting the certificate, coordinate with a certification authority for certificate issuance and are essential to dispute resolution.

Mr. Houlihan concluded that the challenges regarding digital signatures include the type of PKI allowed, signature requirements, liability, acceptance, funding, standards and the issue of in-source vs. out-source.

Uniform Electronic Transactions Act: Christine Bruenn, Bureau of Banking presented a draft amendment to LD 2072, “An Act to Clarify the Admissibility of Electronic Records and Signatures”. The draft amendment would substitute the Uniform Electronic Transactions Act (“UETA”) for the text of the bill that was carried over to the 2nd Session by the Joint Standing Committee on Judiciary. The amendment would re-title the legislation “An Act to Adopt the Uniform Electronic Transactions Act” and would serve to adopt the uniform act in Maine. Linda Monica noted that the National Conference of Commissioners on Uniform State Laws is comprised of primarily lawyers, judges and law professors appointed by the states and includes representatives from each state. NCCUSL’s primary task is to determine which areas of the law would benefit from uniformity, and to write and recommend uniform laws to state legislatures for enactment. States have enacted various differing state statutes regarding electronic and digital signatures. Therefore, NCCUSL established a drafting committee to create a uniform act (the Uniform Electronic Transactions Act - “UETA”) to establish legal recognition of electronic records and electronic signatures. UETA was approved by NCCUSL in July 1999 and allows the use of electronic records and electronic signatures in any transaction, except transactions subject to the Uniform Commercial Code. UETA is a procedural statute and does not mandate either

electronic signatures or records. UETA will ensure that writing requirements and signature requirements will not be barriers to electronic transactions. UETA also authorizes state governmental entities to create, communicate, receive and store records electronically. UETA defines and gives validity to electronic signatures. An electronic signature is defined as “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” The definition covers a variety of signatures. A digital signature using encryption technology and a person’s name at the end of an e-mail message would both qualify as electronic signatures as long as in each case the person intended to sign the record.

A motion was made, seconded and unanimously approved to include in the Commission’s report a recommendation to enact UETA as appropriately adjusted to reflect key components of Maine law and to include in the report draft proposed legislation.

Digital signature legislation: The Commission discussed the issue of whether the Commission should make a recommendation regarding digital signature legislation (in addition to the recommendation regarding the UETA). Although Commission members are not convinced that there will be support for digital signature legislation next session, members expressed a desire to propose legislation for next session to begin a dialogue on the issue. Christine Bruenn (Bureau of Banking) informed the Commission that UETA is broad enough to encompass digital signatures. Specifically, under UETA, a digital signature using encryption technology would qualify as an electronic signature so long as the person intended to sign the record. Tony Perkins noted that legislation should be enabling, technology neutral (should not require PKI), and should direct a state agency to come up with a uniform approach. A motion was made, seconded and approved to include in the Commission’s report draft legislation regarding digital signatures. One member dissented.

CREDIT CARD PAYMENTS TO AGENCIES:

Commission members discussed potential options to encourage state agencies to accept credit card payments. Currently, an agency can accept credit card payments, but the fee for doing so comes out of the agency’s operating budget. Rebecca Wyke (Secretary of State’s Office) noted that one option is to charge the consumer who uses a credit card for the fee. A second option would be to allocate funds to each agency to cover the fee - to an “Other Special Revenue Account”. Mark Sears (State Treasurer’s Office) noted that credit card companies in their contract with the State do not allow surcharges for the use of credit cards to be passed on to consumers. A representative from Key Merchant Services noted that under Master Card and Visa regulations, the only way you can pass on a fee is a “convenience fee” if that transaction came over the phone. Commission staff were requested to research whether other states charge consumers a fee for transactions conducted over the Internet. Commission members discussed a potential recommendation that for a limited time frame agencies may charge a fee to consumers for transactions over the Internet. After the conclusion of that time frame, the agency would be required to absorb the cost into the agency’s budget. An additional recommendation would require legislative review to determine if it is more cost efficient for agencies to do business over the Internet as opposed to receiving paper payment.

NEXT MEETING: Commission members identified issues to be discussed at the next meeting. Items on the next agenda include: Finalization of recommendations regarding UETA, digital signature legislation, and credit card payments over the Internet; municipal linkage to the Internet (MMA, Janet Waldron, Bob Mayer); Tax credits (Alan Brigham); and how the Internet discussion continues - a Joint Standing Committee? Continuation of this Commission? The Commission will meet again on **Monday, November 22 at 9:00** in Room 438 of the State House.

**BLUE RIBBON COMMISSION TO ESTABLISH A COMPREHENSIVE
INTERNET POLICY**

Addendum to
Meeting Summary from the November 8, 1999 Meeting

The Meeting Summary from the November 8, 1999 Commission meeting is amended to reflect that Commission member Matthew Jancovic was present.



BLUE RIBBON COMMISSION TO ESTABLISH A COMPREHENSIVE INTERNET POLICY

Meeting Summary from the November 22, 1999 Meeting

Commission Members Present:

- Sen. Carol Kontos, **Chair**
- Sen. Neria Douglass
- Sen. Philip Harriman
- Rep. Thomas Davidson, **Chair**
- Linda Monica
- James Mays
- Sally Sutton
- Michael Edgecomb
- Matthew Jancovic
- Phillip Lindley
- Eric Bryant
- Alan Brigham
- Dan Gwadosky
- Gary Nichols (by Linda Lord)

Commission Staff: Susan Johannesman, Darlene Shores Lynch

Review of Summary from November 8th meeting: Commission members reviewed and accepted the summary of the November 8th meeting prepared by staff.

Municipal Linkage: Commission staff presented information on the Maine Governmental Information Network Board that was created pursuant to Public Law 1999, chapter 428. The board was established to enhance electronic data exchange among state and local governments and other providers of governmental services. The board oversees the computer network that connects individual municipal governments and other governmental service providers. The Office of the Secretary of State provides administrative support to the board and is responsible for all regular operations of the board. Chapter 428 also created the Maine Governmental Information Network Fund to carry out the purposes of the law. However, very limited funding of \$1,000 for the biennium was allocated to the Fund.

Rebecca Wyke of the Secretary of State's Office noted that several hundred municipalities do not have technology in place to enable citizens to access information from municipal government. Kate Dufour of the Maine Municipal Association noted that MMA has been working with the State on this project for the last 2 years. Senator Harriman questioned whether there was money left over from the Maine Schools and Libraries Program.

A motion was made by Rep. Davidson, seconded by Sally Sutton and approved to include in the Commission's report a recommendation to support funding for the Maine Governmental Information Network. Jim Mays opposed the motion.

A motion was made by Sally Sutton, seconded by Sen. Douglass and approved to include in the Commission's report a recommendation that the Joint Standing Committee on Utilities and Energy review a variety of funding mechanisms for the Maine Governmental Information

Network and report out legislation on its findings. Jim Mays and Linda Monica opposed the motion.

Business Development Incentives: Alan Brigham presented information to the Commission on economic development incentive tools to assist in-state and out-of-state employers conduct their business. The incentives include tax-related initiatives, employee training programs, modern telecommunications infrastructure, grants and low interest loan programs. Most of the incentives have arisen in patchwork fashion over several years leading to a complex, complicated program. The Commission agreed that there is a strong set of incentives but that the incentive program is very complex.

A motion was made by Sen. Harriman, seconded by Sen. Douglass and approved to include in the Commission's report a recommendation that the Commissioner of the Department of Economic and Community Development be charged with bringing forward to the 120th Legislature, legislation to simplify and streamline the existing incentive programs, especially those incentives that are technology related.

Discussion of Recommendations:

Uniform Electronic Transactions Act: The Commission reiterated its recommendation from an earlier meeting regarding support for the enactment of the Maine Uniform Electronic Transactions Act.

Digital signature legislation: The Commission reviewed draft legislation drafted by Commission staff. The Commission agreed that the legislation should apply to both private and public entities. A motion was made by Sen. Douglass, seconded by Sally Sutton and unanimously approved to include in the Commission's report the draft legislation on digital signature legislation.

Credit card use by agencies: Commission staff presented follow-up information to the Commission regarding the credit card issue. Sally Sutton noted that passing credit card surcharges on to consumers would discourage consumers to use the Internet for agency services. A motion was made by Sen. Kontos, seconded by Sally Sutton and unanimously approved to require state agencies to accept payment by credit card, to prohibit agencies from passing on credit card surcharges to consumers, and to direct the State Treasurer to negotiate a lower credit card rate with the major credit card companies.

How the discussion continues: The Commission reviewed options available to them to ensure that Internet issues are addressed. Commission members noted that the Internet grows exponentially and new issues are always arising. Commission members also noted that the Commission did not have adequate time to address all the issues that they were charged with studying. The Commission requested the Commission staff to draft potential recommendations that would change the name and jurisdiction of the Joint Standing Committee on Business and Economic Development and that would extend the Commission by amending the Resolve that created the Commission.

NEXT MEETING: The Commission will meet again on **Monday, December 6th at 9:00** in Room 437 of the State House to review a draft report of the Commission.

BLUE RIBBON COMMISSION TO ESTABLISH A COMPREHENSIVE INTERNET POLICY

Meeting Summary from the December 6, 1999 Meeting

Commission Members Present:

- Sen. Carol Kontos, **Chair**
- Sen. Philip Harriman
- Rep. Thomas Davidson, **Chair**
- Anthony Perkins
- Linda Monica
- James Mays
- Sally Sutton
- Michael Edgecomb
- Matthew Jancovic
- Phillip Lindley
- Alan Brigham
- Dan Gwadosky
- Gary Nichols (by Linda Lord)

Commission Staff: Susan Johannesman, Darlene Shores Lynch

Review of Summary from November 22nd meeting: Commission members reviewed and accepted the summary of the November 22nd meeting prepared by staff.

Maine Business Works: The Commission discussed the Maine Business Works pamphlet that was distributed by Alan Brigham.

Review of draft report:

Focus Section: The Commission discussed the Focus section of the report and noted that the areas focused on by the Commission should correlate to the charges to the Commission contained in the implementing legislation.

Recommendation Section: The Commission discussed the recommendation and findings section of the report and (1) made changes to several recommendations, (2) added two additional recommendations [regarding procedures for electronic payments and renaming the Jt. Standing Committee on Utilities and Energy] and (3) reorganized the numbering of the recommendations.

A motion was made by Rep. Davidson, seconded and approved by the Commission to approve the draft report as amended at today's meeting.

APPENDIX D

State electronic authentication legislation

Enacted State Legislation Dealing with Digital Signatures

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
Arizona	Ariz. Rev. Stat. Ann. s. 41-121	Any Electronic Signature	Limited to use by state agencies, and for the acceptance of documents filed with the Secretary of State.	Term used but not defined
	1998 AZ HB 2518 (Amends Ariz. Rev. Stat. Ann. §41-121 and §41-132)	Any Electronic Signature	Limited to documents filed with or by a state agency, board or commission.	" A type of electronic signature that transforms a message through the use of an asymmetric cryptosystem"
Arkansas	The Information Network of Arkansas (1999 AR SB 378)	Digital Signature only	Limited to communications with public entities.	Term used but not defined
	1999 AR HB 1167	Digital Signature only	Generally applicable to all communications.	Term used but not defined
California	CA Government Code § 16.5; (1995 CA AB 1577)	Electronic Signatures with specified authentication attributes only	Limited to communications with public entities.	uses the term digital signatures to refer to electronic signatures "an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature"
Florida	Electronic Signature Act of 1996 - Fla. Stat. § 282.70 et. seq. (1997), (1996 FL SB 942)	Any Electronic Signature	Generally applicable to all communications.	"Electronic signature' means any letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party with an intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing."

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
	Fla. Stat. §117.20 (1997) 1997 FL HB 1413	Digital Signature only	Limited to electronic notarizations and to the electronic public filing of engineering-related documents.	Term used but not defined
Georgia	Amends Title 40. Motor Vehicle and Traffic of the Georgia Code (1997 GA HB 487)	Electronic Signature with specified authentication attributes only <input type="checkbox"/>	Limited to the electronic filing of certain documents relating to motor vehicles. <input type="checkbox"/>	Uses the term "Digital Signature" to refer to electronic signatures. <input type="checkbox"/> Authorizes Electronic Signatures with specified authentication attributes only. <input type="checkbox"/> The term "Digital Signature" is defined as "a digital or electronic method executed or adopted by a party with the intent to be bound by or to authenticate a record, which is unique to the person using it, is capable of verification, is under the sole control of the person using it, and is linked to data in such a manner that if the data are changed the digital or electronic signature is invalidated."
	O.C.G.A. §16-9-121 (1998) (1997 GA HB 513)	Digital Signatures Only	Makes unauthorized use of another's Digital Signature a crime under Georgia law.	Term used but not defined
Hawaii	Hawaii Revised Statutes Annotated Title 14 § 231-8.5 (1995 HI SB 2401)	Any Electronic Signature	Limited to the digital and electronic filing of court documents	Term used but not defined

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
Illinois	Illinois Electronic Commerce Security Act; 5 Ill. Comp. Stat. 175/1-101 et seq. (1997 Illinois House Bill 3180)	Any Electronic Signature	Generally applicable to all communications.	"Digital signature" means a type of an electronic signature created by transforming an electronic record using a message digest function, and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic record, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key; and whether the initial electronic record has been altered since the transformation was made. A digital signature is a security procedure.
	Financial Institutions Digital Signature Act; 205 ILCS 705/5 et seq. (1997 IL HB 597)	Electronic Signatures with specified authentication attributes only	Limited to communications between financial institutions and their customer.	The term "digital signature" is defined as "an encrypted electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature."

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
	State Comptroller Act; 15 ILCS 405/14.01 et seq. (1997 IL SB 516)	Electronic Signatures with specified authentication attributes only	Limited to communications between a state agency and the comptroller.	The term "Digital Signature" is defined as "an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature." □The use of a digital signature shall be the same as a manual signature only if it embodies all of the following attributes: (a) it is unique to the person using it; (b) it is capable of verification; (c) it is under the sole control of the person using it; it is linked to data in such a manner that if the data are changed, the digital signature is invalidated; (e) it conforms to regulations adopted by the comptroller.
Indiana	Electronic Digital Signature Act - West's Ann. Indiana Code Title 5, Art. 24 (1997 IN SB 5a, 1997 IN HB 1945)	Digital Signature only	Limited to transactions with the State.	"Digital signature" means an electronic signature that transforms a message using an asymmetric cryptosystem such □that a person having the initial message and the signer's public key can accurately determine whether: □(1) the transformation was created using the private key that corresponds to the signer's public key; and (2) the initial message has been altered since the transformation was made.

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
Iowa	Iowa Electronic Commerce Security Act (1999 Iowa HF 624)	Any Electronic Signature	Generally applicable to all communications.	<p>"Digital signature' means a type of an electronic signature consisting of a transformation of an electronic record using a message digest function that is encrypted with an asymmetric cryptosystem using the signer's private key in a manner providing that any person having the initial untransformed electronic record, the encrypted transformation, and the signer's public key may accurately determine all of the following: <input type="checkbox"/> a. Whether the transformation was created using the private key that corresponds to the signer's public key. <input type="checkbox"/> b. Whether the initial electronic record has been altered since the transformation was made. A digital signature is a security procedure.."</p>

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
Maryland	Maryland Digital Signature Pilot Program, 1998 Md. Laws 482; (1998 MD HB 523)	Electronic Signatures with specified authentication attributes only	Limited to communications among governmental entities.	"Digital Signature' means an electronic identifier, created by a computer, that: (i) is intended by the authorized signer to have the same force and effect as the use of a manual signature; (ii) is unique to the authorized signer; (iii) is capable of verification; (iv) is under the sole control of the authorized signer; (v) is linked to data in such a manner that if the data are changed, the signature is invalidated; and (vi) conforms to regulations adopted by the Secretary of State."
Minnesota	1997 MN SB 2068 (Amends Minnesota Electronic Authentication Act (Minn. Stat. Ann. § 325K))	Digital Signature Only	Generally applicable to all communications.	"Digital signature' or "digitally signed" means a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine: (1) whether the transformation was created using the private key that corresponds to the signer's public key; and (2) whether the initial message has been altered since the transformation was made."
	1997 MN SB 1905	Digital Signature only	Generally applicable to all communications.	Term used but not defined

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
	Minnesota Electronic Authentication Act (Minn. Stat. Ann. § 325K)	Digital Signature only	Generally applicable to all communications.	"Digital Signature' means a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine: (1) whether the transformation was created using the private key that corresponds to the signer's public key; and (2) whether the initial message has been altered since the transformation was made."
Mississippi	Digital Signature Act of 1997, Miss. Code 1972 Ann. § 25-63-1et. seq. (1997) (1997 MS HB 752)	Digital Signature only	Generally applicable to all communications.	"Digital Signature' means a message or part of a message which has been transformed using a computer program called a "private key" such that a person receiving the message can use a related computer program referred to as the signer's "public key" to determine whether the transformation was created using the private key that corresponds to the public key and whether the original message has been altered since the transformation was made."

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
Missouri	Missouri Digital Signature Act (1998 MO SB 680)	Digital Signature Only	Generally applicable to all communications.	Digital Signature means "a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine whether: (a) The transformation was created using the private key that corresponds to the signer's public key; and (b) The message has been altered since the transformation was made."
	1998 MO SB 844	Digital Signature Only	Limited to filings with the Secretary of State for certain business organizations.	Term used but not defined
New Hampshire	1998 NH laws 22; (1997 NH HB 290)	Digital Signature only	Generally applicable to all communications.	"Digital signature' means a type of electronic manipulation that transforms a message using an asymmetric cryptosystem such that a person having the transformed message and the signer's public key can accurately determine: (a) Whether the transformation was created using the private key that corresponds to the signer's public key; (b) Whether the initial message has been altered since the transformation was made."
	New Hampshire Digital Signature Act - RSA 294-D:1 et. seq.; (1997 NH SB 207)	Any Electronic Signature	Limited to communications between the State and any agency or instrumentality of the State.	"Digital Signature' means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature."

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
New Mexico	Electronic Authentication of Documents Act New Mexico Statutes Annotated §14-15-1 et. seq. (1996 NM HB 516)	Digital Signature only	Limited to public records and filings.	"'Electronic authentication' means the electronic signing of a document that establishes a verifiable link between the originator of a document and the document by means of a public key or private key system."
	1999 NM SB 146	Electronic Authentication/Digital Signatures	Limited to Public Records and Filings	Term used but not defined
North Carolina	1997 NC HB 1356	Any Electronic Signature	Limited to filings with public agencies.	Term used but not defined
Oklahoma	1997 OK HB 3287	Digital Signatures and Electronic Signatures with specified authentication attributes only	Generally applicable to all communications.	Term used but not defined

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
Oregon	Electronic Signature Act, Oregon Revised Statutes §192.825 et. seq. (1997 OR HB 3046)	Any Electronic Signature	Generally applicable to all communications.	"Digital signature' means a type of electronic signature that transforms a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine: <input type="checkbox"/> (a) Whether the transformation was created using the private key that corresponds to the signer's public key. <input type="checkbox"/> (b) Whether the initial message has been altered since the transformation was made. A 'key pair' is a private key and its corresponding public key in an asymmetric cryptosystem, under which the public key verifies a digital signature the private key creates. An 'asymmetric cryptosystem' is an algorithm or series <input type="checkbox"/> of algorithms which provide a secure key pair."
	Oregon Revised Statutes §709.335 (1997 OR SB 125)	Digital Signature only <input type="checkbox"/>	Authorizes a trust company to be a certification authority.	Same definition as above
Texas	Tex. Bus. & Com. Code § 2.108 (1998 TX HB 984)	Any Electronic Signature	Limited to communications with public agencies	"Digital Signature' means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature."
	Tex. Gov't Code § 403.027 (1997 TX SB 645)	Any Electronic Signature	Limited to transactions with the State Comptroller or between Public Agencies	"Digital Signature' means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature."

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
	Tex. Transp. Code § 201.931 (1997 TX SB 370)	Any Electronic Signature	Limited to motor vehicle license applications	"Digital Signature' means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature."
Utah	Utah Stat. Ann §46-1-16 (1998 UT SB 107)	Digital Signature only	Limited to Notary Public acknowledgments	"Digital signature" means a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine whether: (a) the transformation was created using the private key that corresponds to the signer's public key; and (b) the message has been altered since the transformation was made."
	Utah Digital Signature Act (Utah Code Ann. §46-3-101 et seq.)	Digital Signature only	Generally applicable to all communications.	Same as above definition
Virginia	Va. Code Ann. §§59.1-467 to 469 (1997 VA SB 923)	Any Electronic Signature	Generally applicable to all communications.	'Digital Signature' means an electronic identifier, created by a computer, intended by the party using it to have the same force and effect as the use of a manual signature."

STATE	STATUTE	TYPE OF SIGNATURE AUTHORIZED	SCOPE	DEFINITIONS OF DIGITAL SIGNATURE
Washington	Washington Electronic Authentication Act (Chapter 19.34 RCW)	Digital Signature only	Generally applicable to all communications.	"Digital Signature" means a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine: (a) Whether the transformation was created using the private key that corresponds to the signer's public key; and (b) Whether the initial message has been altered since the transformation was made."
West Virginia	1998 WV HB 4293	Any Electronic Signature	Generally applicable to all communications.	"A digital signature which consists of a message transformed using an asymmetric cryptosystem so that a person having the initial message and the signer's public key can accurately determine: (A) whether the transformed message was created using the private key that corresponds to the signer's public key; and (B) whether the initial message has been altered since the message was transformed."
Wisconsin	Wisconsin Statutes s. 16.85 (23); (1997 WI AB 100)	Any Electronic Signature	Limited to the electronic submission of bids for state contractors	
Wyoming	Wyoming Statutes Wyoming Statutes §9-1-3069-1-306	Any Electronic Signature	Limited to filings with the Secretary of State.	Term used but not defined

The following are the terms used in the "Type of Signature Authorized" column of the table:

(a) Statutes marked as authorizing the use of "Any Electronic Signature" include general definitions of electronic signatures that do not impose any requirements relating to security of the signature, and also encompass pki-based digital signatures, either expressly or by implication.

(b) Statutes marked as authorizing the use of "Digital Signatures" are limited in scope to pki-based signatures. They do not address other forms of electronic signatures. Information from National Conference of State Legislatures, Council of State Governments and McBride, Baker and Cole

APPENDIX E

Business incentive programs

TRAINING PROGRAMS:

Maine Quality Centers Program



- Eligible Businesses:** New or expanding firms creating a minimum of eight (8) *new* full-time jobs with benefits in the state of Maine.
- Program Summary:** This program provides 100% state-financed education and training for new employees, as well as customized recruitment and guaranteed, fast-track, training designed to employer specifications. This program is offered at no cost to the company or trainees, and is delivered by the state's Technical Colleges.
- Program Example:** A leading manufacturer and builder of industrial equipment supplying the metal-forming industry needed 15 mechanical assemblers to support a company expansion. These Assemblers needed to be trained in a range of mechanical and electrical assembly operations and would have to be available to the company within nine months. With Quality Centers funding, the company worked with the local technical college to develop a 269-hour, 12-week education and training program covering mathematics, blueprint reading, basic hydraulics, pneumatics, health and safety, and more. The courses were offered four evenings per week and every Saturday. Recruitment and screening was provided through the Maine Job Service. Ultimately the training was completed, and the company hired the 15 individuals as planned.
- How to Apply:** For a packet of information and application contact:
Jim McGowan
Director, Maine Quality Centers
Maine Technical College System
323 State Street
Augusta, ME 04330
Phone: 207-767-5210
Fax: 207-287-1037
E-mail: jmccgowan@ccdme.org
www.mtcs.tec.me.us

TRAINING PROGRAMS: *Governor's Training Initiative*



Eligible Businesses:

Private sector Maine employers:

- Incurring work force training costs related to unique circumstances such as expansion, retention, or upgrading issues.
- Paying wages equal to 85% of the average wage for that occupation in the given labor market.
- Contributing at least 50% of the premium cost of employee health insurance, except for small companies with fewer than 25 employees and in business less than 3 years.

Program Summary:

Partial reimbursement of training costs may be provided to employers who are hiring new employees, and/ or retaining or upgrading their existing work force. Training services eligible for reimbursement include: recruitment, assessment, job task analysis, workplace literacy, high performance skills, technical training, higher education, on-the-job training, workplace safety and competitive retooling.

Program Example:

A small Portland employer needed 5 new pilots in order to expand into the high-end jet market business. Also required was retraining for existing pilots to operate the new aircraft. GTI provided tuition reimbursement for simuffite training for both the new and existing employees. This assistance enabled the company to hire and train Maine residents rather than experienced pilots from out-of-state

How to Apply:

For an application contact:
Maine Department of Labor
Bureau of Employment Services
55 State House Station
Augusta, ME 04333-0055
Phone: 207-624-6390
Fax: 207-624-6499
E-mail: lil.bickford@state.me.us
www.state.me.us/dolbes/labor.htm

TAX PROGRAMS:

Business Equipment Property Tax Reimbursement (BETR) Program



Eligible Businesses:

Any business (except public utilities, radio paging services, mobile communications, cable television, satellite-based direct television broadcast, multichannel, and multipoint television distribution services, certain energy facilities, most natural gas pipelines, and property used to produce or transmit energy primarily for resale) that pays property taxes on qualified business property.

Program Summary:

The program reimburses, for up to 12 years (less any number of years for which an Investment Tax Credit was claimed), all local property taxes paid on eligible business property. Once the business pays its taxes, it has 60 days in which to file for BETR. Once Maine Revenue Services receives the BETR form, a check will be issued within 180 days.

The definition of eligible business property is defined by law, but generally means personal property first placed in service in Maine after April 1, 1995. Eligible property includes certain property affixed or attached to a building or other real estate if it is used to further a particular trade or business on that site and so may include property which would be classified as real property for other purposes. Starting with property tax year April 1, 1997, office furniture, lamps and lighting fixtures are not eligible for reimbursement and are excluded from the program.

Program Example:

Cote's Cookie Co. purchased a \$100,000 dough-mixing machine on July 7, 1997. When the town assessed the new machinery on April 1, 1998 they valued the property at \$95,000. Based on the town's mil rate of 15, the company paid an equipment property tax of \$1425 on the eligible equipment. The company then filed an application with the Maine Revenue Service for the BETR program within 60 days of paying the equipment property tax. The company received full reimbursement of the \$1425 it paid in equipment property tax.

How to Apply:

Complete Form 800, and 801, send a copy of the tax bill and receipt within 60 days of paying the equipment property tax. An automatic 60 day extension may be obtained by writing a letter to the Maine Revenue Services. Application forms can be obtained by calling (207)624-7894.

For more information about the program contact:

Anthony Gould

Maine Revenue Services

24 State House Station

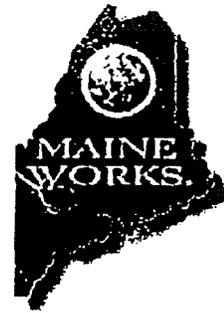
Augusta, ME 04332-0024

Phone: 207-626-8460

Fax: 207-624-9694

E-mail: anthony.gould@state.me.us

janus.state.me.us/revenue/homepage.htm



TAX PROGRAMS:

Employer-Assisted Day Care Credit

Eligible Businesses: Employers that on behalf of their employees provide day care services through direct capital and personnel expenditures or subsidizing a licensed day care center.

Program Summary: The program provides an income tax credit of up to \$5,000. The credit is limited to the lesser of \$5,000, 20% of the cost incurred or \$100 for each child of an employee enrolled on a full-time basis or for each full-time equivalent throughout the tax year. The usable credit cannot be greater than the income tax otherwise due in any tax year. The credit may be carried forward 15 years or back 3 years. For the first year the taxpayer provides day care services, enrollment is determined as of the last day of the year.

Program Example: Rupert's Auto Sales employs 15 people full time. Rupert started doing business in Maine on July 1, 1998 and decided to include in his benefit package to his employees free day care on site. Rupert renovated a large room in the back of his business, and hired Daisy, who became a licensed day care professional, to provide day care for eight children belonging to five full time employees. Rupert's cost incurred included the cost of renovations, Daisy's salary and operating expenses for a total of \$18,000 in the first six month's. Rupert's tax due for 1998 before taking the credit was \$500. Rupert's credit would be the lesser of \$5,000, \$3,600 (\$18,000 daycare costs X 20%) or \$800 (8 children X \$100 for each full time child in day care). Rupert may take a credit of \$500, the remaining \$300 may be carried forward for up to 15 years or back for 3 years.

How to Apply: The taxpayer applies for the credit when completing their income tax form.

For more information about the program contact:

Anthony Gould

Maine Revenue Services

24 State House Station

Augusta, Maine 04332-0024

Phone: 207-626-8460

Fax: 207-624-9694

E-mail: anthony.gould@state.me.us

janus.state.me.us/revenue/homepage.htm

TAX PROGRAMS:

Employment Tax Increment Financing (ETIF)



Eligible Businesses:

Any business that hires a minimum of 15 net new employees within a two year period, where those employees are: 1) paid an income that exceeds the average per capita income in the county of employment; 2) provided with group health insurance, and; 3) provided with an ERISA qualified retirement program. The business must also be able to demonstrate that its expansion project will not go forward without ETIF funds.

Program Summary:

ETIF is available to assist in the financing of business investment projects that create at least 15 net new, high quality jobs in Maine. An ETIF-approved business would receive either 30, 50 or 75 percent of the state income tax withholdings paid by qualified employees for up to ten years. (Qualifying jobs created in labor market area where unemployment is at or below the state average earn a 30 percent reimbursement, while those with higher than average unemployment earn 50 percent. In areas where unemployment exceeds 150 percent of the state average, the reimbursement is 75 percent.) The percentage of reimbursement is established for a five year period based upon the unemployment rate at the time of initial application, and again at the beginning of the sixth year. The amount of annual payment is based upon the actual number of qualified employees above the company's base level of employment. The company may not accrue ETIF benefits for any period of time wherein employment, wages and/or employee benefits fail to meet the minimum qualification criteria. **(Also, please note that ETIF cannot be taken concurrently with the Jobs & Investment Tax Credit).**

Program Example:

A company is considering adding 30 jobs and investing \$1 million in Androscoggin County. The new jobs will be equally divided in pay at \$8, \$9.50 and \$11 per hour. Group health insurance and a retirement program are available to all employees. The company is looking at other states also, and will base its location decision upon the projected return on investment. Androscoggin County's average annual per capita income is \$19,012 (\$9.14/hr), and the labor market area unemployment rate is above the state average. In this scenario, 20 of the 30 new employees would be considered "qualified" by virtue of their wages (those above \$9.14/hr) and benefits, entitling the company to seek ETIF approval. When the company demonstrates that ETIF provides a return that will result in the investment being made in Maine, the application will be approved. Assuming an average state income tax withholding rate of 3.5%, that employment levels and wages do not change, and that the company remains qualified, the company would be eligible for an annual reimbursement of \$7,480 for ten years -- a total of \$74,800.

How to Apply:

Contact: Alan Brigham, Director of Policy and Planning
Department of Economic and Community Development
59 State House Station
Augusta, Maine 04333-0059
Phone: 207-287-2656
Fax: 207-287-5701
E-mail: alan.brigham@state.me.us

TAX PROGRAMS:

High-Technology Investment Tax Credit



Eligible Businesses:

Businesses primarily engaged in high-tech activities that purchase and use eligible equipment. Businesses that lease eligible equipment to lessees that are primarily engaged in high-tech activities and the lessee waives its entitlement to the credit. Lessees of eligible equipment primarily engaged in high-tech activities. High-tech activities include the design, creation, and production of computer software, computer equipment, supporting communications components and other accessories that are directly associated with computer software and equipment. It also includes the provision of internet or electronic communications access services or support access to electronic media, data and associated communications support or certain advanced telecommunications capabilities. Eligible equipment can include computer equipment, electronics components and accessories, certain communications equipment, and computer software placed in service in the state during the tax year that the credit is being claimed.

Program Summary:

The credit amount is equal to the adjusted basis of equipment placed in service in Maine less any lease payments received during the taxable year. This tax credit cannot reduce the tax liability to less than the tax liability of the preceding tax year after the allowance of any credits and it cannot reduce the tax liability in the current year below zero. The unused portion of the credit may be carried forward five years. **(This credit cannot be taken in tandem with BETR.)**

Program Example:

A World of Connections, a new internet access company specializing in producing software to help users interactively connect to the internet via their cable tv connection purchased \$5,000,000 in computer components and software. In 1997 their tax liability after credits taken was \$200,000. During 1998 following a breakthrough in internet access, their tax liability after all other credits is \$4,000,000. Although the allowable credit is \$5,000,000, only \$3,800,000 can be used in 1998 because the credit may not reduce the current year tax liability to less than the prior year's tax liability after credits. The unused portion (\$1,200,000) may be carried forward up to five years.

How to Apply:

The taxpayer applies for the credit when completing their income tax form.

For more information about the program contact:

Anthony Gould

Maine Revenue Services

24 State House Station

Augusta, Maine 04332-0024

Phone: 207-626-8460

Fax: 207-624-9694

E-mail: anthony.gould@state.me.us

janus.state.me.us/revenue/homepage.htm

TAX PROGRAMS:

Jobs and Investment Tax Credit



Eligible Businesses:

Any business, other than a public utility, that invests at least \$5 million in a taxable year in most types of personal property in Maine and creates 100 new jobs over the ensuing two-year period.

Program Summary:

This program provides a credit against Maine income taxes equal to 10% of investment in most types of personal property. The investment must total at least \$5 million in any taxable year and generate at least 100 new qualifying jobs within two years of the date the investment is placed in service. Qualifying jobs must provide wages greater than the average per capita income in the labor market area where the jobs are located, and be covered by retirement and group health insurance programs. The credit amount is limited to the lesser of \$500,000 per year or the tax otherwise due. Unused credit amounts may be carried forward up to 6 years. Thus, the total credit can be up to \$3,500,000 for an investment of \$35 million or greater. Special rules apply to members of affiliated groups. Recapture provisions apply if the property is disposed of or otherwise ceases to qualify under the Code.

(This credit cannot be taken in tandem with the Employment Tax Increment Financing Program.)

Program Example:

Metalmania Corp. is a medium-sized metal manufacturer that is in growth mode. The company invested \$35,000,000 during 1996 in new and used machinery and equipment and added 100 new qualifying jobs by the end of 1997. The company is eligible for a \$3,500,000 (10% x \$35,000,000) tax credit under Maine's Jobs and Investment Tax Program. Metalmania Corp. can take advantage of the credit by reducing its income tax liability by a maximum of \$500,000 each year for 7 years.

How to Apply:

The taxpayer applies for the credit when completing their income tax return.

For more information about the program contact:

Anthony Gould

Maine Revenue Services

24 State House Station

Augusta, ME 04332-0024

Phone: 207-626-8460

Fax: 207-624-9694

E-mail: anthony.gould@state.me.us

janus.state.me.us/revenue/homepage.htm

TAX PROGRAMS:

Custom Computer Programming Sales Tax Exemption



- Eligible Businesses:** Any business that purchases custom computer programming.
- Program Summary:** This program exempts from sales tax the purchase of custom computer programming effective October 1, 1997. If a standard program is purchased then customized, the cost of the standard program would be taxable and the customizing, if separately stated, would be nontaxable.
- Program Example:** LTD is a new manufacturing company. The company purchased a custom computer accounting software program for \$100,000. The company is exempt from paying Maine's 5½% sales tax -- a value of \$5,500.
- How to Apply:** For more information about the program contact:
Anthony Gould
Maine Revenue Services
24 State House Station
Augusta, Maine 04332-0024
Phone: 207-626-8460
Fax: 207-621-9694
E-mail: anthony.gould@state.me.us
janus.state.me.us/revenue/homepage.htm

TAX PROGRAMS:

Manufacturing Sales Tax Exemption



Eligible Businesses: Any manufacturing company.

Program Summary: Sales of machinery and equipment used by the purchaser **directly** and **primarily** in the production of tangible personal property is eligible for a sales tax exemption. In addition, items consumed or destroyed directly or primarily in production, and repair and replacement parts for qualified production equipment are exempt from sale tax.

Program Example: Strummin is a guitar strings manufacturer. The company purchased a piece of string winding equipment for \$50,000. In addition, the company also purchased \$2,000,000 of inventory. The company is exempt from paying Maine's 5½% sales tax on the machinery and inventory -- a value of \$112,750.

How to Apply: Obtain an Industrial Blanket Certificate of Exemption form by contacting:

Sales Tax Division
Maine Revenue Services
24 State House Station
Augusta, ME 04333-0024
Phone: 207-287-2336
Fax: 207-287-6628
janus.state.me.us/revenue/homepage.htm

TAX PROGRAMS:

Fuel and Electricity Sales Tax Exemption



Eligible Businesses:

Any business that purchases fuel and/or electricity for use at its manufacturing facility.

Program Summary:

This program exempts from sales tax 95% of the sales price of all fuel and electricity purchased for use at the manufacturing facility.

Program Example:

During the month of July, Giordano & Co., a guitar manufacturer, purchased \$20,000 in electricity. The company is exempt from paying Maine's 5½% sales tax on \$19,000 ($\$20,000 \times 95\%$) of the electricity cost -- a \$1,045 value. Instead the company will only need to pay \$55 in sales tax ($5\frac{1}{2}\% \times \$1,000$).

How to Apply:

Obtain an Industrial Blanket Certificate of Exemption form by contacting:

Sales Tax Division
Maine Revenue Services
24 State House Station
Augusta, ME 04333-0024

Phone: 207-287-2336

Fax: 207-287-6628

janus.state.me.us/revenue/homepage.htm

STATE FINANCIAL PROGRAMS:

Major Business Expansion Program



Eligible Businesses:

Any business proposing to expand or locate in Maine and whose borrowing needs fall in the \$5,000,000 to \$25,000,000 range. A borrower must commit to retaining or creating at least 100 jobs.

Program Summary:

The program provides tax-exempt or taxable bond financing for up to 100% of a project's cost. Bonds may be issued as either tax exempt (subject to the limits of the Internal Revenue Code) or taxable. Business borrowers must use Bond proceeds to permanently fund the construction, acquisition or renovation of a facility used in the borrower's operation, or to acquire machinery and equipment. The Bond proceeds may also be used for the take out financing of hard assets. The financing is structured to match the useful life of the assets being financed.

Program Example:

An eligible borrower could qualify for a \$5 million Major Business Expansion Bond for permanent financing of a distribution facility expansion.

How to Apply:

Contact:
Dave Markovchick
Finance Authority of Maine
83 Western Avenue
P.O. Box 949
Augusta, ME 04332
Phone: 207-623-3263
Fax: 207-623-0095
E-mail: dave@famemaine.com
www.famemaine.com

STATE FINANCIAL PROGRAMS:

Small Enterprise Growth Program



Eligible Businesses:

Businesses with a distinct competitive advantage in a strong marketplace. The business must employ 25 or fewer *or* have gross sales of \$2,000,000 or less within the past 12 months. Borrower must be engaged or involved in at least one of the following: Marine Science, Biotechnology, Manufacturing, Exporting, Software Development, Environmental Sciences, Value Added Natural Resources and/ or other enterprises that the Board determines will further the purposes and intent of the program.

Program Summary:

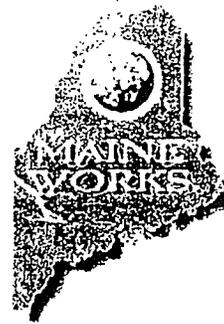
This program provides financing for small Maine companies that demonstrate a potential for high growth and public benefit. The program will seek adequate risk adjusted returns on investment. Financing is limited to a maximum of \$150,000 per loan and must be matched with other financing sources. The SEGP may also charge the borrower for its out-of-pocket expenses associated with closing and administering this loan in excess of \$1,500.

Candidate Example:

A company is developing immunoassay test kits for herbicides and is seeking \$100,000 to commercialize the product which has already completed prototype testing. There is a strong market for the product and the company has an excellent management team in place.

How to Apply:

Contact:
Charlie Spies
Small Enterprise Growth Fund
P.O. Box 670
Augusta, ME 04332
Phone: 207-623-3263
Fax: 207-623-0095
E-mail: charlies@famemaine.com
www.famemaine.com



STATE FINANCIAL PROGRAMS:

Maine Technology Investment Fund

Eligible Businesses:

Maine private, for profit companies with fewer than 50 employees and with gross sales less than \$5,000,000 and whose research and development efforts are in the target technology areas of marine science, biotechnology, software, precision manufacturing, environmental, and composite materials.

Program Summary:

The overall objective of the Maine Technology Investment Fund is to strengthen employment opportunities in Maine by stimulating commercialization of good technology ideas in small companies. The MTIF can invest in companies that demonstrate use of technologies with a competitive advantage in the marketplace. MTIF will seek risk-adjusted return on its investment over a period not to exceed ten years. Investments will be considered within a range of \$25,000 to 4100,000 and must be matched by the company with case investment of at least 1:1.

Program Example:

A for-profit company has developed a new technological device that will open up a new market area allowing the company to expand its operations, triple its revenues, and has the potential to add an additional 100 employees within 5 years. The company requires \$500,000 to develop a production project from a prototype that was developed under the federal Small Business Innovation Research program. A \$100,000 MTIF investment is required with \$400,000 of private capital being invested to complete the financial requirements.

How to Apply:

Contact:
Claire Collins, Chief Operating Officer
Maine Science and Technology Foundation
77 Sewall Street
Augusta, ME 04333
Phone: 207-621-6350
Fax: 207-621-6369
E-Mail: collins@mstf.org
www.mstf.org

LOCAL FINANCIAL PROGRAMS:

Tax Increment Financing (TIF)



Eligible Businesses: Any business making significant capital investments within their municipality, where the municipality is willing to provide financial support through the use of the revenue stream of new property taxes resulting from these investments.

Program Summary: TIF is strictly a local financing tool wherein a municipality may use all, or a portion of, the new property taxes that result from an investment project within a designated district to assist in that project's financing. The municipality has the option of issuing bonds (which are retired using the tax increment), or paying the tax increment directly to the investing business to cover project costs. Tax Increment Financing districts may be designated for a period of up to 30 years. Bonds may be issued under this program for up to 20 years. The designation of a TIF district requires a public hearing and the majority vote of the municipal legislative body.

Program Example: A business expects to invest \$500,000 in buildings and site improvements on vacant land (currently valued at \$100,000), and install \$400,000 in manufacturing machinery and equipment. The municipality's property tax mil rate is \$20 per \$1,000 of valuation, and the business will have a tax obligation of \$20,000 per year once the investments are recorded on the tax rolls. Of this tax obligation, \$18,000 is incremental, and thus eligible for TIF.

Scenario 1 (Credit Enhancement Agreement): The municipality agrees to "capture" 75% of the incremental tax revenues for a period of fifteen years and return them to the business to assist in financing the new building. The business would receive \$13,500 in the first year of the TIF, though subsequent payments might be adjusted for equipment depreciation, real estate appreciation, and future capital investments. All things being equal, however, the business would receive approximately \$202,500 over the life of the TIF.

Scenario 2 (Municipal Bond Financing): The business needs a road and utilities installed for \$150,000. The municipality agrees to pay this cost, issuing a 20 year TIF bond in the amount of \$150,000. Annual debt service on the bond will be \$12,338, which the municipality will "capture" out of the incremental taxes.

How to Apply: The tax increment financing statutes are found in 30-A M.R.S.A. §§ 5251-5261. By virtue of its complexity and the public process required, most businesses desiring tax increment financing find it advantageous to secure the services of an experienced TIF consultant.

For more information and/or to obtain a copy of the administrative rule contact:
Alan Brigham, Director of Policy and Planning
Department of Economic and Community Development
59 State House Station, Augusta, Maine 04333-0059
Phone: 207-287-2656
Fax: 207-287-5701
E-mail: alan.brigham@state.me.us

LOCAL FINANCIAL PROGRAMS:

Business Assistance Program



Eligible Businesses:

Businesses that have a significant impact on their local or regional economy that require financing to carry out an economic development project leading to the creation or retention of jobs principally for low and moderate income persons. Because this program uses Community Development Block Grant Funds (CDBG), businesses located in Auburn, Bangor, Lewiston or Portland are not eligible, as they receive their own CDBG allotments.

Program Summary:

The program provides a grant to a local government to either loan or grant up to \$400,000 to businesses to finance fixed assets including capital equipment, commercial or industrial buildings, fixtures or property improvements. This financing must represent a critical component of a business' development or expansion and must lead to the creation or retention of jobs for low and moderate income persons. Program applicants must demonstrate that all other financing opportunities have been exhausted. Financing terms are determined by DECD in accordance with the needs of the business.

Program Example:

When Gerber Childrenswear announced its intention to cease operations in Fort Kent, the town worked with its regional development corporation and the state to identify ownership capable of restarting the facility. A new company, Kent Textiles, Inc., formed to purchase and restart operations at the children's clothing manufacturing plant. The town, in conjunction with the new company, applied for and received a Business Assistance grant of \$300,000 to enable the company to purchase the factory and rehire 150 former Gerber employees. The company is the largest private employer in the community and one of the largest in Aroostook County.

How to Apply:

Contact:
Christina Revell
Office of Business Development
Department of Economic and Community Development
59 State House Station
Augusta, ME 04333-0059
Phone: 207-287-2707
Fax: 207-287-5701
E-mail: christina.revell@state.me.us

LOCAL FINANCIAL PROGRAMS:

Economic Development Infrastructure Grant



Eligible Businesses:

New and expanding businesses that require the development, expansion or rehabilitation of **public** infrastructure to meet their requirements.

Program Summary:

The program provides grants to **municipalities** of up to \$400,000 for the construction of public infrastructure projects such as; water lines, roads, utilities, publicly owned buildings, waste water treatments, and rail spurs. This infrastructure must represent a critical component of a business' development or expansion and must lead to the creation or retention of jobs for low and moderate income persons.

Program Examples:

The Town of Machiasport received a grant for \$400,000 to construct a public fish pier adjacent to a new, state-of-the-art, \$2 million fish processing facility developed by Atlantic Salmon of Maine, Inc. The company is a leader in the burgeoning salmon aquaculture industry in Washington County. The expansion will create 30 new, natural resource-based jobs.

The Town of Farmington received a grant for \$260,000 to expand and renovate a publicly owned manufacturing facility. The project represents an excellent example of the adaptive reuse of an historic school building. M.T.E., Inc., a manufacturer of electronic wiring harnesses and electric sub-assemblies, will be creating 32 new jobs.

How to Apply:

Applications are accepted three times a year during the winter, spring and summer for a funding competition.

Contact:

Aaron Shapiro

Office of Community Development

Department of Economic and Community Development

59 State House Station

Augusta, ME 04333-0059

Phone: 207-287-8476

Fax: 207-287-8070

E-mail: aaron.shapiro@state.me.us

LOCAL FINANCIAL PROGRAMS: *Development Fund Loan Program*



- Eligible Businesses:** A business creating or retaining jobs for low and moderate income persons that requires "gap" financing that cannot be obtained from other public sources.
- Program Summary:** The Development Fund Program can provide up to \$200,000 of "gap" financing for up to 40% of a business' development activities. The financing can be used for either fixed asset investments or working capital. Loans are provided at favorable terms and conditions as determined by DECD in accordance with the business' needs. Businesses receiving Development Fund support must create or retain jobs, principally for persons of low to moderate income.
- Program Examples:**
- EchoVision is a new software duplication company that copies and packages software for retail sales in Damariscotta. Their \$50,000 Development Fund Loan allowed them to hire five new employees with a goal of 10 new employees by the end of 1998.
- Humpty Dumpty Potato Chip Company, located in Scarborough, had been purchased in the 1980's by an out-of-state concern that neglected its assets. As market share and quality declined the company was sold to new owners who sought to revitalize the business. The Development Fund was combined with other sources of public and private financing to purchase new equipment and provide working capital. Humpty Dumpty now employs over 100 workers.
- How to Apply:**
- Contact:
Christina Revell
Office of Business Development
Department of Economic and Community Development
59 State House Station
Augusta, ME 04333-0059
Phone: 207-287-2707
Fax: 207-287-5701
E-mail: christina.revell@state.me.us

APPENDIX F

Proposed legislation, Uniform Electronic Transactions Act

Title: An Act to Adopt the Uniform Electronic Transactions Act

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

Sec. 1. 10 MRSA Part 13, c. 1051 is enacted to read:

PART 13

ELECTRONIC COMMERCE

CHAPTER 1051

UNIFORM ELECTRONIC TRANSACTIONS ACT

§9201. Short title

This chapter may be cited as the Uniform Electronic Transactions Act.

§9202. Definitions

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

1. **Agreement.** “Agreement” means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

2. **Automated transaction.** “Automated transaction” means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

3. **Computer program.** “Computer program” means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

4. **Contract.** “Contract” means the total legal obligation resulting from the parties’ agreement as affected by this chapter and other applicable law.

5. **Electronic.** “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

6. Electronic agent. “Electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

7. Electronic record. “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.

8. Electronic signature. “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

9. Governmental agency. “Governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a State or of a county, municipality, or other political subdivision of a State.

10. Information. “Information” means data, text, images, sounds, codes, computer programs, software, databases, or the like.

11. Information processing system. “Information processing system” means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

12. Person. “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

13. Record. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

14. Security procedure. “Security procedure” means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

15. State. “State” means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a State.

16. Transaction. “Transaction” means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

§9203. Scope

1. **General rule.** Except as otherwise provided in subsection 2, this chapter applies to electronic records and electronic signatures relating to a transaction.

2. **Exceptions.** This chapter does not apply to a transaction to the extent it is governed by:

A. A law governing the creation and execution of wills, codicils, or testamentary trusts; and

B. The Uniform Commercial Code other than sections 1-107 and 1-206, Article 2, and Title 11, Article 2-A.

3. **Limitation of exception.** This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection 2 to the extent it is governed by a law other than those specified in subsection 2.

4. **Other law.** A transaction subject to this chapter is also subject to other applicable substantive law.

§9204. Prospective application

This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the effective date of this chapter.

§9205. Use of electronic records and electronic signatures; variation by agreement

1. **Electronic means or form not required.** This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

2. **Consent.** This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

3. **Other transactions.** A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

4. **Variance by agreement.** Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this

chapter of the words “unless otherwise agreed”, or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

5. **Conclusions of law.** Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

§9206. Construction and application

This chapter must be construed and applied:

1. **Facilitation.** To facilitate electronic transactions consistent with other applicable law;

2. **Reasonable practices.** To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

3. **General purpose.** To effectuate its general purpose to make uniform the law with respect to the subject of this chapter among States enacting it.

§9207. Legal recognition of electronic records, electronic signatures, and electronic contracts

1. **Form.** A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

2. **Formation.** A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

3. **Writing.** If a law requires a record to be in writing, an electronic record satisfies the law.

4. **Signature.** If a law requires a signature, an electronic signature satisfies the law.

§9208. Provision of information in writing; presentation of records

1. **Writing.** If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

2. **Records.** If a law other than this chapter requires a record to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner, the following rules apply:

A. The record must be posted or displayed in the manner specified in the other law.

B. Except as otherwise provided in subsection 4, paragraph B, the record must be sent, communicated, or transmitted by the method specified in the other law.

C. The record must contain the information formatted in the manner specified in the other law.

3. **Unenforceable.** If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

4. **Variance by agreement.** The requirements of this section may not be varied by agreement, but:

A. To the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection 1 that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

B. A requirement under a law other than this chapter to send, communicate, or transmit a record by certified mail, return receipt requested, first-class mail, postage prepaid, or regular United States mail, may be varied by agreement to the extent permitted by the other law.

§9209. Attribution and effect of electronic record and electronic signature

1. **Attributable to a person.** An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

2. **Effect of attribution to a person.** The effect of an electronic record or electronic signature attributed to a person under subsection 1 is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

§9210. Effect of change or error

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

1. **Security procedure used.** If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also

conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

2. Electronic agent. In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

A. Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

B. Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

C. Has not used or received any benefit or value from the consideration, if any, received from the other person.

3. Other law. If neither subsection 1 nor subsection 2 applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

4. Variance by agreement. Subsections 2 and 3 may not be varied by agreement.

§9211. Notarization and acknowledgment

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

§9212. Retention of electronic records; originals

1. Requirement. If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

A. Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

B. Remains accessible for later reference.

2. **Transmission information.** A requirement to retain a record in accordance with subsection 1 does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

3. **Agents.** A person may satisfy subsection 1 by using the services of another person if the requirements of that subsection are satisfied.

4. **Originals.** If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection 1.

5. **Checks.** If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection 1.

6. **Evidence; audits.** A record retained as an electronic record in accordance with subsection 1 satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this chapter specifically prohibits the use of an electronic record for the specified purpose.

7. **Governmental agencies.** This section does not preclude a governmental agency of this State from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

§9213. Admissibility in evidence

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

§9214. Automated transaction

In an automated transaction, the following rules apply:

1. **Interaction of electronic agents.** A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

2. **Interaction of electronic agent and individual.** A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

3. **Substantive law.** The terms of the contract are determined by the substantive law applicable to it.

§9215. Time and place of sending and receipt

1. Sending. Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

A. Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

B. Is in a form capable of being processed by that system; and

C. Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

2. Receipt. Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

A. It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

B. It is in a form capable of being processed by that system.

3. Physical location. Subsection 2 applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection 4.

4. Place of business. Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

A. If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

B. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

5. Actual receipt. An electronic record is received under subsection 2 even if no individual is aware of its receipt.

6. Contents. Receipt of an electronic acknowledgment from an information processing system described in subsection 2 establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

7. Legal effect. If a person is aware that an electronic record purportedly sent under subsection 1, or purportedly received under subsection 2, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

§9216. Transferable records

1. Definition. In this section, “transferable record” means an electronic record that:

A. Would be a note under Article 3-A of the Uniform Commercial Code or a document under Article 7 of the Uniform Commercial Code if the electronic record were in writing; and

B. The issuer of the electronic record expressly has agreed is a transferable record.

2. Control. A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

3. Compliance. A system satisfies subsection 2, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

A. A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs D, E, and F, unalterable;

B. The authoritative copy identifies the person asserting control as:

(1) The person to which the transferable record was issued; or

(2) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

C. The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

D. Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

E. Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

F. Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

4. **Holders.** Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Title 11, section 1-201, subsection 20, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under section 3-1302, subsection 1, section 7-501, or section 9-308 of the Uniform Commercial Code are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection.

5. **Obligors.** Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

6. **Proof.** If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

§9217. Creation and retention of electronic records and conversion of written records by governmental agencies

Each governmental agency of this State shall determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records.

§9218. Acceptance and distribution of electronic records by governmental agencies

1. **Option.** Except as otherwise provided in section 9212, subsection 6, each governmental agency of this State shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

2. **Specifics.** To the extent that a governmental agency uses electronic records and electronic signatures under subsection 1, the governmental agency, giving due consideration to security, may specify:

A. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

B. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

C. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

D. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

3. Not mandatory. Except as otherwise provided in Section 9212, subsection 6, this chapter does not require a governmental agency of this State to use or permit the use of electronic records or electronic signatures.

§9219. Interoperability

The governmental agency of this State which adopts standards pursuant to Section 9218 may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other States and the federal government and nongovernmental persons interacting with governmental agencies of this State. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this State may choose in implementing the most appropriate standard for a particular application.

§9220. Severability clause

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§9221. Effective date

This Act takes effect on _____.

SUMMARY

This bill implements a recommendation of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. It enacts the Uniform Electronic Transactions Act, enabling

businesses and residents of the state of Maine to conduct business and transactions electronically by affording such transactions the same legal status as traditional paper transactions.

APPENDIX G

Proposed digital signature legislation

Title: An Act to Allow the Use of Digital Signatures in the State of Maine

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

Sec. 1. 10 MRSA Part 13, c. 1053 is enacted to read:

PART 13

ELECTRONIC COMMERCE

CHAPTER 1053

MAINE DIGITAL SIGNATURE ACT

§9250. Short title.

This chapter shall be known and may be cited as the Maine Digital Signature Act.

§9251. Definitions.

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

1. Digital signature. “Digital signature” means a computer-created electronic signature that:

- A. Is intended by the person using it to have the same force and effect as the use of a manual signature;
- B. Is unique to the person using it;
- C. Is capable of verification;
- D. Is under the sole control of the person using it; and
- E. Is linked to data in such a manner that it is invalidated if the data are changed.

2. Electronic signature. “Electronic signature” has the same meaning as used in chapter 1051, Uniform Electronic Transactions Act.

§9252. Rules adopted by Secretary of State.

When a digital signature is used in a transaction involving a state department, agency, office, board, commission, quasi-independent agency, authority or institution it must conform to

rules adopted by the Secretary of State. Rules adopted pursuant to this section are routine technical rules.

§9253. Effect of use of digital signature.

A digital signature may be accepted as a substitute for, and if accepted, shall have the same force and effect as the use of a manual signature.

§9254. Use of digital signature.

The use or acceptance of a digital signature shall be at the option of the parties. Nothing in this chapter requires a public entity to use or permit the use of a digital signature.

§9255. Construction.

Except as otherwise specifically provided, nothing in this chapter may be construed to preempt, replace or otherwise negate the requirements of chapter 1051, Uniform Electronic Transactions Act.

SUMMARY

This bill implements a recommendation of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. It defines digital signature and provides that the use of a digital signature has the same force and effect as the use of a manual signature. It does not mandate the use of digital signatures but provides that the use or acceptance of a digital signature will be at the option of the parties.

APPENDIX H

Proposed credit card legislation

Title: An Act to Require State Agencies to Accept Payment by Credit Card

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

Sec. 1. 5 MRSA §1509-A is amended to read:

5 § 1509-A. Payment by credit card

State departments and agencies ~~may~~ shall implement, with the approval of the State Controller, procedures for accepting payment for goods, services, fines, forfeitures or any other fees by major credit cards or other electronic means. Unless otherwise provided for in law as of the effective date of this section, any administrative expenses or credit card fees incurred in connection with this method of receiving funds must be absorbed within the existing budget of the department or agency as authorized by the Legislature.

SUMMARY

This bill implements a recommendation of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. It requires state departments and agencies to implement procedures for accepting payment by major credit cards or other electronic means.

APPENDIX I

Proposed legislation to extend the Commission

Title: Resolve, to Extend the Blue Ribbon Commission to Establish a Comprehensive Internet Policy

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

Whereas, this resolve is necessary as an emergency measure to provide funding for the Blue Ribbon Commission to Establish a Comprehensive Internet Policy to continue its work immediately following the Second Regular Session of the 119th Legislature; 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. Resolve 1999, c. 89, §7 is amended to read:

Sec. 7. Report. Resolved: That no later than December 1, 1999, the commission shall submit its report, together with any necessary implementing legislation, to the Joint Standing Committee on Business and Economic Development 119th Legislature and the Executive Director of the Legislative Council. The Joint Standing Committee on Business and Economic Development is authorized to report out a bill during the Second Regular Session of the 119th Legislature concerning the findings and recommendations of the commission.

In addition, the commission is authorized to meet following the conclusion of the Second Regular Session of the 119th Legislature to continue its work. The commission shall end its work by November 15, 2000. The commission shall submit its second report, together with any necessary implementing legislation, to the 120th Legislature.

If the commission requires an extension, it may apply to the Legislative Council, which may grant the extension; and be it further

Sec. 2. Appropriation. Resolved: That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

LEGISLATURE

Blue Ribbon Commission to Establish a Comprehensive Internet Policy

Personal Services
All Other

Provides funds for the per diem and expenses of legislative members of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy and to print the required report.

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

SUMMARY

This bill implements a recommendation of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. It authorizes the commission to meet to conclude its work following the conclusion of the Second Regular Session of the 119th Legislature.